The Solicitors' Journal

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When replying to Advertisers please mention "The Solicitors' Journal."

PUBLIC NOTICES.

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Applications are invited for the position of Legal Clerk in the Clerk's Department from persons who are capable of carrying through conveyancing matters and other legal work of the Council. The inclusive salary for the appointment will be £230 per annum, and the appointment will be subject to one month's notice on either side.

The appointment will also be subject to the provisions of the Local Government and Other Officers Superannuation Act, 1922, and the selected candidate will be required to pass satisfactorily a medical examination by the Council's Medical Officer.

Reasonable facilities will be afforded to the successful candidate to enter into articles of clerkship to the Clerk as a Solicitor.

Applications together with copies of three recent testimonials must reach the undersigned endorsed "Legal Clerk" not later than 9 a.m., on Saturday, 24th October, 1936.

Canvassing in any form will disqualify.

CLIFFORD HEYWORTH,
Clerk to the Council.

Town Hall,
Chingford, E.4.
7th October, 1936.

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Town Hall,
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7th October, 1936.

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EX-OFFICERS.

THE Proprietors of The Solicitors' Journal have placed this space at the disposal of THE BRITISH LEGION, OFFICERS' ASSOCIATION, EMPLOYMENT BUREAU, 20, Grosvenor Gardens, S.W.1 (Telephone: Sloane 2315), to whom all replies should be addressed, quoting number of advertisement, date of insertion, and the name of this paper.

EX-LIEUT., age 42, seeks post as Despatch and Postal Clerk, Timekeeper, Caretaker; 3 years as Postal and Despatch Clerk; 9 years Caretaker and Steward; able do general repairs. 14253.

EX-OFFICER, 41, no encumbrances, smart appearance, tact and integrity; desires appoint ment as School Attendance Officer, Salesman, Rent Collector, etc.; London district preferred. Dis. 469.

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THE OFFICERS' ASSOCIATION Employment Bureau have many ex-officers on their register with linguistic qualifications, etc., and would welcome enquiries for Interpreters, Guides and Couriers, etc.

In addition to the above-mentioned, the Officers' Association Employment Bureau have on their Register a very large number of other Ex-Officers of varied qualifications, and the Secretary would be very grateful if Employers would kindly notify him at 20, GROSVENOR GARDENS, LONDON, S.W.1, particulars of any vacancy they may have available. Telephone Sloane 2315.

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The Solicitors' Journal

VOL. LXXX. **Saturday, October 10, 1936.** No. 41

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Current Topics.

Michaelmas Term.

THE term which now begins, like the others into which the legal year is divided, shows by its name the ecclesiastical influence so prominent in our institutions in early times. According to BLACKSTONE, following SPELMAN, the four terms, formed from the canonical constitutions of the church, were no other than those leisure seasons of the year which were not occupied by the great festivals or fasts, or which were not liable to the general avocations of rural business. Before the church intervened to regulate this matter it seems that the whole year was one continual term for hearing and deciding causes, but later, when the ecclesiastical influence became more potent, certain seasons were exempted from "being profaned by the tumult of forensic litigations," namely, the time of Advent and Christmas, which gave rise to the winter vacation; the time of Lent and Easter which created that in spring; the time of Pentecost which produced the third; and the long vacation which was allowed for the hay time and harvest. When, in due time, our legal constitution came to be settled, the commencement and duration of the legal terms were fixed with an eye to those canonical prohibitions during which "the peace of God and of holy church" was to be observed throughout the kingdom. Nowadays, we are more concerned about the duration of the terms and of the vacations than with their early history and evolution, but it is of interest at times to recall how these originated and the part they have played in our legal annals. Those curious in such questions scarcely need to be reminded that the date of the commencement of Michaelmas term has been altered from time to time according as it has seemed good to those in authority to decide for the abbreviation or elongation of the autumn vacation which, as some one has said, may well be called "long." The opening of Michaelmas term is marked out from the others by the ceremonial with which it is accompanied: the procession of the judges through the Central Hall following the services at Westminster, but, as a French writer noted long ago, there are, wisely, no formal discourses on the occasion such as are pronounced at the opening of the Courts in Paris.

The Term's Lists.

THE lists for next term which begins on Monday, show, with an increase in the number of appeals to the Court of Appeal and of divorce causes, a general decline in legal business so far as comparison between the number of matters set down for hearing this and the corresponding term last year affords any criterion. In the Chancery Division a decrease from 213 to 174 matters is to be recorded. Witness List, Part I, comprising forty cases, will be taken by CLAUSON and CROSSMAN, JJ.; Witness List, Part II, comprising seventy cases, by EVE and FARWELL, JJ.; while LUXMOORE and BENNETT, JJ., will deal with the fifty-one causes in the Adjourned Summons and Non-Witness List. Each judge will also deal with a few matters from the various lists which need not be further particularised here. There are in addition 109 company matters which will come before CROSSMAN, J., and six appeals and motions in bankruptcy. The lists for the King's Bench Division again exhibit a somewhat spectacular decrease, this time from 810 to 483. Two years ago the corresponding figure was 1,102. The Ordinary List comprises fifty-five special jury, thirty-nine common jury, and 245 non-jury actions. The New Procedure List contains ninety-four cases (a drop of ninety-two), the Commercial List nineteen; while thirty-one actions have been set down for hearing under Ord. XIV. Probate, Divorce and Admiralty matters number 1,595, an increase of 121 over the total for last year. The number of Admiralty actions (five) is the same. Undefended causes have risen by sixty-seven to 1,059, defended causes by ninety-one to 491, while common jury actions have fallen from sixty-two to forty.

Appeals.

THE term's lists, compared with those for last year, show an increase in the number of appeals to the Court of Appeal from 152 to 253. Of the final appeals, forty-two are from the Chancery Division, 126 are from the King's Bench Division, including sixteen from the Revenue Paper, and five from the Probate, Divorce and Admiralty Division. There are fifty-seven appeals from the county courts, including twelve workmen's compensation cases, and four from the County Palatine Court of Lancaster. Compared with last year the lists for the Divisional Court exhibit a decline from a total of 128 appeals to ninety-eight. They include fifty-five causes in the Crown Paper, ten in the Civil Paper, twenty-two in the Revenue Paper, and five in the Special Paper. Corresponding figures last year were respectively eighty-four, eight, sixteen and seven. Four appeals under the Housing Acts, one appeal under the Public Works Facilities Act, and one motion for judgment will also come before the Divisional Court.

Writers to the Signet.

WE have received a copy of the very learned essay written by Professor HANNAY, the historiographer for Scotland, on the "Early History of the Scottish Signet," in which he traces the part played by the various seals and signets under the Scottish monarchs and the connection therewith of the

body known as the Society of Writers to His Majesty's Signet, which has been described as the most aristocratic section of the solicitor branch of the profession in Scotland. Formerly Writers to the Signet possessed many exclusive privileges, including that of signing summonses in actions in the Court of Session, but recent legislation has made serious inroads on these ancient prerogatives. They, however, still possess certain privileges, in theory at least, including that of elegibility for appointment to the Bench of the Court of Session. This was given them in terms by the Act of Union, but so far as appears no Writer to the Signet, however learned, has reached the judicial dignity, appointments having in fact been confined to members of the Faculty of Advocates. In their special province of conveyancing they have always held a high place, and they present one of their number to fill the chair of Conveyancing in the University of Edinburgh. Readers of SCOTT's life hardly need to be reminded that his father was a member of this select body, and in due time was chosen as the prototype of SAUNDERS FAIRFORD in "Redgauntlet."

Mechanisation in the Office.

THE Business Efficiency Exhibition which was opened by LORD DUDLEY recently at Birmingham has demonstrated once again the extent to which the mechanisation of the office has developed in recent years by the introduction of a variety of appliances for effecting speedy and workmanlike results, and the abolition of much of the drudgery formerly regarded as inevitable. So accustomed, however, have we been in recent days to these labour-saving devices, such as calculating and book-keeping machines, that we are apt to forget how very modern they are, and how much we owe to them for the quick despatch of business. At the exhibition at Birmingham one of the interesting articles shown was the first typewriter, which was made in 1873 by an American sewing machine manufacturer, whose invention was destined to revolutionise office work. To members of the solicitor branch of the profession the typewriter has proved an inestimable boon in the saving of time and labour, but it is curious to recall in connection with its use in the legal world an incident which is at the same time illustrative of the extremely conservative attitude of mind on the part of some towards it, that LORD DAVEY, while at the Bar, on receiving his first typewritten brief, sent it back with the message that "he could not read it." Since then we have travelled a long way, and we have all now learned the immense utility of typescript not only in the matter of speed of production but likewise in its superior legibility.

Reform of Income Tax Law.

A NUMBER of interesting points, to which, however, only the briefest allusion is possible here, are dealt with in the memorandum recently prepared by the Income-tax Payers' Society for submission to the Chancellor of the Exchequer on the report of the Committee on Income-tax Codification, and on the draft Bill for which that committee was responsible. Both report and Bill were noted in these columns in our issue of 18th April last (80 SOL. J. 293-4). The memorandum now in question has been compiled by an expert committee under the chairmanship of Sir PERCY THOMPSON. Among matters to which exception is taken is the necessity under the draft Bill (cl. 89) that a claim should be made before the taxpayer can be charged at one-third the standard rate on the first £135 of his taxable income. No such condition, it is urged, exists at present and the introduction of such is likely to hamper the officials rather than help them. It is thought, moreover, that the Bill should be clarified in regard to its provisions affecting the taxation of executors and administrators if they are not to be exposed to the possibility of becoming liable to prosecution for penalties incurred by the deceased. Exception is also taken to the attempt in the Bill to restrict child allowance in the case of illegitimate children to cases where the parents were free to marry when the child was born, while it is thought unreasonable that in order to obtain the housekeeper allowance a woman relative acting in that capacity must reside with the claimant, while, if she is not a relative, she need not reside with him (see cl. 84 of the draft Bill). The memorandum advocates, moreover, more comprehensive and detailed notices of assessment in order that there may be clearly indicated to the taxpayer what are the various assessments on him and from which of them he has been granted the personal allowances due to him. Further exception is taken to the proposal enabling tax assessed by one body of commissioners in one part of the country to be recovered by distraint on the taxpayer in another part of the country simply on an order of the commissioners, and it is urged that, before the collector acts, the authority of the local commissioners should be necessary, as they alone are likely to have sufficient knowledge of the taxpayer's circumstances to ensure that no harsh distraint is made (cl. 311). It is also suggested in connection with the provisions in the Bill for delimiting allowances from profits in respect of bad debts, that means should be taken to safeguard a trader who has omitted to write off a bad debt when it became bad, and that reasonable time should be allowed to him to correct his omission. The memorandum also contains important suggestions, which cannot be particularised here, in connection with the taxation of trade unions, savings banks, investment companies, mutual trading concerns, partnerships and joint interests.

Duplicity of Charges.

BRIEF attention may be directed to the circumstances in which a summons charging the defendant alternately with motoring offences was dismissed at Hythe, Kent, last Tuesday. Section 12 (1) of the Road Traffic Act, 1930, provides: "If any person drives a motor vehicle on a road without due care and attention or without reasonable consideration for other persons using the road he shall be guilty of an offence." The motorist in the case under review was charged with driving, according to the report in *The Daily Telegraph*, "without due care and attention or without reasonable consideration for other users of the road." It was contended on his behalf (in substance) that the foregoing section of the Road Traffic Act, 1930, embodied two offences and that the summons accused the defendant of one or the other. He could have been accused of both or either, but he was not. The summons, it was intimated, would have been in order if the word "and" had been used instead of the word "or." On a suggestion that application be made to have the summons amended it was pointed out that the case for the prosecution had been closed and that the charge could not be altered to suit the evidence. The case was dismissed "on a point of law." The matter is covered by authority. In *Rex* v. *Surrey Justices, ex parte Witherick* [1932] 1 K.B. 450, a conviction of driving "without care and attention or without reasonable consideration . . ." was held to be bad for duplicity, the appellant having been charged with the two offences created by the above-named section in the alternative. In a Scottish case a complaint in which offences under the section were libelled cumulatively was held to be good; *Archibald* v. *Keiller* [1931] S.L.T. 560.

Registration of Nursing Homes.

A CIRCULAR (No. 1574) has recently been sent by the Ministry of Health to town clerks and the clerks of councils concerned, in which it is stated that the Minister has received representations that the steps taken by local authorities in their administration of the Nursing Homes Registration Act, 1927 (which provides for the registration and inspection of nursing homes), are not invariably sufficient to enable them to ascertain at an early stage the existence of nursing homes which have not been registered under the Act. The Minister accordingly urges

each local supervising authority to confer with the medical practitioners in the area with a view to circularising to such from time to time a list of the registered homes with the request that the existence of any unregistered nursing home may be notified. The Minister has been in consultation with the British Medical Association on the matter and understands that the Association fully concurs in the suggestion. It is urged, moreover, that full use should be made by the authorities of their appropriate officers in order to bring to light the existence of unregistered nursing homes and that advertisements from nursing homes for patients or staff appearing in the Press should be regularly examined to the same end. The importance of adequate supervision and of securing that the requirements of the Act are in all cases fully observed is also emphasised. The circular is published by H.M. Stationery Office, price 1d. net.

A Road Safety Campaign.

WEDNESDAY'S *Times* drew attention to the instructions which have been issued by the Commissioner of Police of the Metropolis and which will result in hundreds of police taking part in a special campaign with a view to reducing the number of road accidents. It is pointed out, in the course of a memorandum on the subject, that there are other offences against the road regulations as well as exceeding the speed limit; cutting in, overtaking and making a third line of traffic, and swinging out at blind corners being cited as examples of dangerous driving. While the more dangerous offences may be more difficult to prove, the Commissioner reminds the police that they must not be deterred on that account, while it is emphasised that there are many instances of foolish behaviour on the part of motorists, cyclists, pedestrians and road users generally, which, though not offences, constitute a source of danger. The police, it is said, are sometimes blamed even when they draw attention to a careless act in a courteous manner, but the Commissioner feels sure that the great majority of road users are anxious to co-operate with the police in securing greater safety. Particular attention is drawn to places which are known as "black spots" where accidents occur with the greatest frequency. It is stated that the memorandum was welcomed by the Automobile Association.

Skidding.

THE large number of road accidents caused by the skidding of motor vehicles renders particularly opportune, at a time when the toll of the road shows little sign of abating, the publication by H.M. Stationery Office of the sixth annual report of the Experimental Work on Highways (Technical) Committee. This report, which was published last Monday, price 1s., contains particulars of more than sixty experiments which have been begun by the Roads Department of the Ministry of Transport under the guidance of a Technical Committee set up by Mr. Hore-Belisha with the object of finding the best materials for the construction and surface treatment of roads under varying local conditions. Among means employed for testing the skid-resisting properties of a number of different kinds of road surface are two "skidding machines," stationed so as to be available for the north and south of England respectively. These machines are specially designed motor-cycle and sidecar combinations and reports of their behaviour on wet surfaces of various kinds are set out in the foregoing publication with the suggestion that more machines of the same kind might with advantage be provided and used regularly in all parts of the country. Particulars of experiments which have been made and tests which are projected with the object of ascertaining the relative merits of various kinds of thin "carpets" from the points of view of durability, resistance to skidding, and cost, and to the efforts which are being made to discover what is the best colour for a road surface from the point of view of driving at night are given in the report. Road research is also carried on, in close collaboration with that already indicated, by the Department of Scientific and Industrial Research under the advice of the Road Research Department. While on the subject, allusion may profitably be made to the speech made by Major F. G. TURNER, engineer in charge of the experimental work at the Ministry of Transport, at the National Road Transport Conference which was held at Brighton towards the end of last month. The speaker intimated that tests have shown that there are a number of tar and bituminous surfaces capable of providing durable non-skid surfaces which need no maintenance or repairs for at least five years. He made reference to tests with various surfaces and to experiments which had been made in applying "thin carpets" composed of balanced mixtures of stone and binder to the surface of a road which possessed an appreciable amount of further life but whose surface needed treatment to improve its resistance to skidding. On the desirability or otherwise of a coarse surface as a skidding resistant he referred to researches in America which, he said, tended to show that "sandpaper" textures were better than the coarse textured surface.

Rules and Orders: Supreme Court Rules.

THE attention of readers is drawn to the Rules of the Supreme Court (No. 4), 1936 (S.R. & O. 1936, No. 1011/L.25), which provide for the insertion of a new rule after r. 8 of Ord. LV. The new rule, 8A, is to the effect that orders for payment and possession made under r. 5A of the same Order shall be in the forms prescribed by the new rules with such variations as circumstances may require, and that like forms *mutatis mutandis* shall be used under corresponding circumstances in actions for the like relief commenced by writ. The new forms of order—Nos. 38, 39 and 40 to be inserted in Appendix L after form No. 37—relate respectively to the payment of principal money or interest secured by mortgage or charge, to possession of property forming a security for payment to the plaintiff of any principal money or interest, and to the payment of principal money or interest secured by mortgage or charge and for possession of property comprised therein. It will be remembered that r. 5A of Ord. LV specifies the relief which may be obtained by parties to a mortgage on originating summons, namely, sale, foreclosure, delivery of possession by the mortgagor, redemption, reconveyance, and delivery of possession by the mortgagee. It was held by the Court of Appeal in *Weld* v. *Petre* [1929] 1 Ch. 33, that there was nothing in the said rule preventing the court on an originating summons from making a common redemption order against a mortgagee in possession which contained a personal order on him to pay the mortgagor the amount which should be certified to be due from him in excess of the amount due for principal, interest, and costs. That was not like the case of a mortgagee endeavouring to obtain, in addition to the usual foreclosure decree, a personal judgment against the mortgagor for payment of the mortgage debt—a form of relief with which the rule is not concerned. The new rules, which are set out in full at p. 818 of this issue, come into operation on 12th October.

Unemployment Insurance Draft Regulations.

ATTENTION may also be drawn to the fact that the Unemployment Insurance (Crediting of Contributions) (Agriculture) Regulations, 1936, and the Unemployment Insurance (Contributions) (Amendment) Regulations, 1936, have been submitted to the Unemployment Insurance Statutory Committee by the Minister of Labour under the Unemployment Insurance Act, 1935. A copy of these draft regulations may be obtained from the Secretary, Unemployment Insurance Statutory Committee, Montagu House, Whitehall, S.W.1. Objections, which must be in writing and state the portions of the draft objected to, the grounds of objection, and the omissions, additions, or modifications asked for, must be sent to the Secretary before Tuesday next.

The New Rules: R.S.C. (No. 3) 1936

PROCEDURE IN PATENT ACTIONS.

THE new r. 21 (A) of Ord. LIIIA will have the effect of "crystallising the issues, as well of law as of fact" before a patent action comes into court.

The phrase comes from the "Third and Final Report of the Business of Courts Committee" (1936, Cmd. 5066, p. 15, s. 38). Some means, they reported, should be adopted to have this effect. They recommended the amendment of the old r. 21 (A) —in force since 1931—and the new rule embodies this recommendation.

Patent actions, in the nature of things, are long and complex. That Committee appointed from its numbers a sub-committee to consider the whole procedure. They thought, first, that there should be no restriction upon the right to appeal, since the matters in issue are usually of far-reaching importance; secondly, that it would be wrong to delegate to the Comptroller of Patents—an administrative officer—the hearing of patent actions; and thirdly, that it was undesirable to have a specialist judge to deal with patent business only.

But reform in procedure, they found, was essential.

A patent action almost entirely depends upon scientific and expert evidence. But this is evidence of *fact*, and the Committee state that it should not extend to questions of *construction*. A suggestion had been made that the parties should exchange "proofs of scientific evidence" (as is done under the Board of Referees, guided by Sir D. Kerly). An alternative was that such evidence should be given by affidavit, the affidavits to be exchanged before trial. They would be the evidence-in-chief, and the deponents would be cross-examined. The latter suggestion commended itself to the Committee, and they suggested an amendment of Ord. LIIIA, r. 21 (A), to provide this express power.

Moreover, if pleadings generally often tend to become uninformative, "pleadings in patent actions," say the Committee, "are notoriously uninformative" (p. 16, s. 40). In other actions, sometimes, by excessive pleading, the whole object of the pleading—in the fundamental words of Ord. XIX, r. 4—is evaded. From becoming "a statement in a summary form of the material facts on which the party pleading relies for his claim or defence, as the case may be," a pleading may read like a story in a prolix form of facts, material and otherwise, on which the party pleading may or may not rely. In many ways the old *declarations* were more precise than the modern statements of claim. The object should be "to secure that each party before coming into court shall know the full extent of his opponent's contentions, both in fact and in law" (*ibid.*). This, the Committee grimly remark, is only achieved at present in the House of Lords when the cases of the parties are exchanged. They further recommend that "the parties should exchange before trial a complete statement (signed by counsel) of the matters of fact and contentions of law (including contentions on the construction of documents) on which they rely" (*ibid.*). This is a meritorious endeavour to secure a precise statement of the actual issues of fact and contentions of law to be litigated in the action. After the interlocutory proceedings, the clients and their counsel will be in a better and a proper position to envisage the exact scope of the fight.

Such a practice would be likely to shorten the trial of a patent action, for each side will know beforehand the line of attack by the other side. It is, of course, true that these statements might be costly, for they might well require to be sent to leading counsel to settle and "exhaustive experiments" would previously be necessary. Thus, before the trial, the judge will have, first, the affidavits of scientific evidence, and, secondly, the signed statements of counsel stating the matters of fact and contentions of law.

These recommendations are embodied in the new r. 21 (A) of Ord. LIIIA—which is set forth in a more easily intelligible manner than the old rule.

It is divided into three subsections:—

1. *Mode of trial.*

By sub-s. (1), in an action for infringement of a patent and also a petition for revocation, the plaintiff or petitioner must apply as to the mode of trial as soon as he is entitled to give notice of trial. If he fails to apply within fourteen days of that time, the defendant or respondent may apply.

The application may be dealt with in chambers or in court, as the judge thinks fit.

Under the old rule the Master had jurisdiction to deal with the summons, but a direction had been given that the summons should come before the judge in person in chambers, except when it was necessary to have it adjourned into court. (See *Note* in *Annual Practice*.) No doubt the same practice will be continued under the new rule.

2. *Directions.*

Upon this application, the court or judge may give certain directions. Five such directions are specified, but these are not exhaustive but illustrative.

(*a*) *Delivery of further pleadings or particulars.*—This was the case under the old rule and, being self-explanatory, it calls for no special comment.

The two following directions, however, embody the two special recommendations of the Committee.

(*b*) *Delivery of statements signed by counsel, setting out contentions of fact and law upon which the parties will rely.*—*All* the contentions must be set out. The recommendation referred to *matters* of fact; the rule specifies *contentions* of fact which is perhaps a wider term including *inferences* as well as *matters* of fact. The statement must also contain contentions as to *the construction of documents* and, in particular, *the specifications*.

The intention of the rule is that such contentions should be set forth as upon which the parties "intend to rely at the trial." It is not intended that this signed statement shall be simply a vague and compendious pleading, but that it shall be specific in its facts and in its law.

It is worthy of comment that by the "fundamental law" of pleading—Ord. XIX, r. 4—the material facts contained in the pleading must be those on which the party pleading "*relies for his claim or defence.*" A distinction appears to be both evident and intentional.

(*c*) *Taking expert evidence by affidavit, the filing and delivery.*—The rule refers to evidence "*relating* to matters requiring expert knowledge" and can be given a wide interpretation.

(*d*) *Making experiments, tests, inspections or reports.*—This is in the old rule and (as the Committee point out) may be necessary before counsel can settle the signed statement.

(*e*) *Hearing, as a preliminary question, any question that may arise.*—This power, also, is found in the old rule, and might with advantage be more frequently employed in the trial of an action generally, as is often done in the trial of commercial causes.

Generally.

Sub-section (2) continues with a power to give other directions—

> "as the court or judge may think necessary or expedient for the purpose of defining and limiting the issues to be tried, restricting the number of witnesses to be called at the trial of any particular issue, and otherwise securing that the case shall be disposed of, consistently with adequate hearing, in the most expeditious manner."

The old rule, again, contained similar provisions in almost the same words. "Defining and limiting the issues to be tried" is much wider, however, than "defining, limiting *or directing* the issues *of fact* to be tried," as formerly. There would not appear, however, to be any distinction between the new form of words: securing that "the case shall be disposed of" and the previous form, that "the trial shall be conducted."

The sub-section concludes with the necessary provision —not that the deponent (of the affidavit of expert evidence) *may* be required to be cross-examined—but that—

"the deponents shall, unless the parties otherwise agree, attend at the trial for cross-examination."

This is necessary, for the affidavit of expert evidence is treated as evidence-in-chief (Cmd. 5066, p. 15, s. 38).

3. *Application Mandatory.*

Finally, by sub-s. (3)—found also in the old rules—no action for infringement or petition for revocation can be set down for trial until an application under this rule has been made and disposed of.

This new procedure of *signed statements* and *affidavits of expert evidence* is an important innovation in the rules of civil procedure. That trials will thus be shortened, does not admit of doubt, for the evidence "in chief" of experts will tend to disappear. But, even more important than this, the *signed statement* may well prove a practice to be imitated in other branches of the law, so that pleadings may become, once again, truly informative of the actual facts and law to be litigated.

Company Law and Practice.

The Variation of the Rights of the Holders of Special Classes of Shares.

It is almost invariably customary nowadays for the articles of association of a limited company, whose share capital is divided into different classes of shares, to contain a provision authorising the modification or abrogation of the rights attaching to any particular class of shares, with the consent of some specified proportion of the holders of the issued shares of that class or with the sanction of a resolution passed at a separate meeting of the holders of those shares.

The question which I propose to consider in this article is whether, in a case where a company in exercise of such a power has varied the special rights attaching to a particular class of its shareholders, it is competent to a dissatisfied minority of the shareholders of that class to seek the assistance of the court for the purpose of reinstating their original rights.

Prior to the coming into force of the Companies Act, 1929, the position of such a minority had not formed the subject-matter of any statutory enactment. Sub-section (1) of s. 61 of the Companies Act, 1929, however, now provides as follows:—"If in the case of a company, the share capital of which is divided into different classes of shares, provision is made by the memorandum or articles for authorising the variation of the rights attached to any class of shares in the company, subject to the consent of any specified proportion of the holders of the issued shares of that class or the sanction of a resolution passed at a separate meeting of the holders of those shares, and in pursuance of the said provision the rights attached to any such class of shares are at any time varied, the holders of not less in the aggregate than fifteen per cent. of the issued shares of that class, being persons who did not consent to or vote in favour of the resolution for the variation, may apply to the court to have the variation cancelled, and, where any such application is made, the variation shall not have effect unless and until it is confirmed by the court"; whilst sub-ss. (2) and (3) provide that an application under the section must be made within seven days after the date on which the consent was given or the resolution passed and that on the hearing of the application (which is made by petition, see Ord. 53B, r. 5 (*e*), of the Rules of the Supreme Court) the court may, if it is satisfied having regard to all the circumstances of the case that the variation would "unfairly prejudice" the shareholders of that particular class, disallow the variation, and shall, if not so satisfied, confirm it.

As I have already pointed out, this section is new, and any person reading the section may be pardoned if he concludes that the section forms an important and welcome addition to the law relating to limited companies. In the opinion of the author, however, this is scarcely the case.

In the first place, the practical value of the rights conferred by the section upon minority shareholders of a particular class is, obviously, greatly limited by the requirement that an application under the section must be made within seven days by the holders of 15 per cent. of the issued shares of the class. Suppose, for example, that the holder of a small percentage of the shares of some particular class receives a notice of a separate meeting of his class whereat a resolution is to be proposed altering the rights attached to the shares of that class. The shareholder in question may be strongly opposed to the proposed alteration and genuinely convinced that it is unfair. Obviously, however, he can do little or nothing until the meeting has been held and the resolution passed, for until that has happened he has suffered no harm. And when the resolution has been passed he may be faced with the superhuman task of obtaining the concurrence and support of a large number of shareholders holding the same views as himself and starting legal proceedings all within the short space of seven days! Clearly, then, in a case where the shares of the class are widely held by the public, an application under the section will be extremely difficult, if not actually impossible.

And in the second place it may be doubted whether the section adds anything useful to the law prevailing in such a case prior to the year 1929. Before disallowing a variation of rights to which the section applies, the court must be satisfied that the variation is one which "unfairly prejudices" the minority shareholders of the class. In order to prove this it is conceived that it would be necessary to show that the majority shareholders by whom the variation has been sanctioned had interests conflicting with the interests of the class and could not in sanctioning the variation have acted *bonâ fide* in the interests of the class as a whole. There are several authorities which support the view that any minority shareholder could, in such a case, take proceedings apart from the section to have the sanction given by the majority declared invalid, and not binding upon the class. See *Wedgewood Coal and Iron Company*, 6 Ch. 627; *Goodfellow* v. *Nelson Line* [1912] 1 Ch. 671; *British American Nickel Corporation* v. *O'Brien* [1927] A.C. 369. In the last of these cases Lord Haldane said, at p. 371: "There is, however, a restriction of such powers (in that particular case a power contained in a debenture trust deed to modify the terms upon which the debentures were issued) when conferred upon a majority of a special class in order to enable that majority to bind a minority. They must be exercised subject to a general principle, which is applicable to all authorities conferred on majorities of classes enabling them to bind minorities; namely, that the power given must be exercised for the purpose of benefiting the class as a whole, and not merely individual members only. Subject to this the power may be unrestricted."

The conclusions which may reasonably be drawn from the foregoing remarks are as follows:—

1. That the rights which the section purports to confer upon minority shareholders are of extremely little practical value having regard to the fact that the time within which the application to the court may be made is so short.

2. That a successful application to the court under the section can only be made in a case where it can be shown that the majority shareholders by whom the variation was sanctioned were not acting *bonâ fide* in the interests of the class in sanctioning the variation; and

3. That apart from the section, relief could be obtained from the court in such a case by any single minority shareholder no matter how small his shareholding might be.

A Conveyancer's Diary.

[Contributed.]

Section 26 of the Agricultural Holdings Act, 1923.

This week I propose to draw attention to a singular piece of legislation which appears to be of considerable importance to vendors and purchasers of agricultural land, which is still, in spite of modern industrialism, the largest category of land in this country. Section 26 of the consolidating Agricultural Holdings Act, 1923, reads as follows: "(1) On the making of any contract for the sale of a holding or part of a holding held by a tenant from year to year any then current and unexpired notice to determine the tenancy of the holding given to the tenant either before or after the commencement of this Act shall, *if the contract for sale is made by the person by whom the notice to quit was given*, be null and void unless the tenant has after the nineteenth day of August nineteen hundred and nineteen, and prior to such contract of sale, by writing, agreed that such notice shall be valid." Sub-s. (2) creates an exception that would seem to have long since ceased to be of any importance.

This extraordinary provision first made its appearance in an Act of 1919 passed for the express purpose, and containing no other material provisions. The words we have italicised were introduced into it by the Schedule to the Agriculture Act, 1920, to meet the case of *Robinson* v. *Nesbit* [1920] W.N. 57; 64 Sol. J. 291, to which we refer later.

Nobody seems to know what the intention of this section may be. It is true that in the case of *Blay* v. *Dadswell* [1922] 1 K.B. 632; 66 Sol. J. 439, counsel suggested that "the mischief (aimed at) arose out of the abnormally high price which land with vacant possession was fetching at the time the legislation was proposed, and the consequent temptation to landlords to dispossess their tenants by notice to quit in order to avail themselves of those prices." If this explanation indeed be true, the conditions existing in 1919 have long since passed away, and the provision remains an anomaly. Moreover, the court has always refused to put upon the section any restrictive interpretation flowing from its alleged intention, and has insisted that the very wide words must be taken literally. In the same case Scrutton, L.J., made the following scathing observations at p. 638: "No doubt if you know what the particular mischief is that an Act is intended to remedy you may limit the meaning of general words; for words intended to remedy a particular mischief ought not to be given a wider effect. For instance an Act imposing a penalty on the holder of a liquor licence who permits drunkenness on his premises has been held not to apply where the person found drunk on the premises was the licence-holder himself, as his intoxication was not the mischief with which the Act was dealing . . . I cannot find in (this) Act any indication whatever of the mischief intended to be remedied . . . I confess I strongly suspect that Parliament when using these words went further than it intended, because I find that in the following year it found it necessary to alter the language and confine the avoidance of the notice to a case in which the sale was by the person who gave the notice to quit." Again, if the reason suggested by counsel was true, the remedy was singularly ineffective, for there is nothing in the section to prevent the landlord from selling first and giving the notice afterwards.

However, we have to take the section as it stands, and as the court interprets it, however much we may think it ought to be repealed or modified at the first possible opportunity.

It will be convenient next to summarise the cases briefly. Of these four appear to have been reported. The first was *Robinson* v. *Nesbit*, which was decided before the amendment of 1920. There it was held that the making of a contract of sub-sale by the first purchaser nullified the notice. The amendment reversed this decision. But it is as well to notice that since the amendment the only sale that operates to nullify a notice is a sale by the person *by whom the notice to quit was given*. This amendment would appear to heap anomaly upon anomaly. For it exempts not merely a sub-sale, but a sale by the executors of the person giving the notice, assuming that he has died in the meantime. For they are not the person by whom the notice to quit was given. Why it should be the policy of the Legislature to annul the notice if the landlord sells after it is difficult enough to appreciate. But why there should be no objection to his executors doing so, really passes comprehension.

The next case was *Blay* v. *Dadswell*. Here A and B had let Blackacre, Whiteacre and Greenacre to the Defendant in 1912 as one holding. In 1919, and before the Act, A and B contracted to sell all three plots to the plaintiff, and at once gave notice to the defendant to quit all three. Soon afterwards the Act was passed. Six months or so later, and before the notice had expired, the plaintiff agreed to sell Blackacre alone to the defendant, the tenant. When the notice expired the defendant refused to quit Greenacre (we are not told what happened about Whiteacre), relying on the Act. In an action for the recovery of Greenacre the plaintiff succeeded at the local assizes, and the defendant appealed to the Court of Appeal. The appeal succeeded, on the ground that on the plain words of the section a contract relating to part of the holding annulled the notice to quit the whole. The court as we have seen overruled counsel's attempt to plead that the section aimed at the mischief of tyrannous sales with vacant possession involving the dispossession of the tenant, and his consequent contention that the Act did not apply to a contract to sell to the tenant himself, which would not be within that mischief. The moral of this case is, therefore, that a contract to sell part annuls the notice as to the whole, and that it makes no difference that the sale is to the tenant himself.

The third case was *Rochester and Chatham Joint Sewerage Board* v. *Clinch* [1925] Ch. 753. We need not go into the rather complex facts of this case, and it will suffice to state the rule laid down in the headnote, "Where the reversion on an agricultural holding held by a tenant from year to year, is severed, without any legal apportionment of rent, a valid notice to quit the whole holding, given by both reversioners, is not nullified by a subsequent contract by one reversioner to sell his part of the holding." Here too, Astbury, J., expressed his inability to appreciate the point of the section. The lesson, however, is clear, that in spite of the fact that the section mentions that notice to quit the whole is annulled by a subsequent sale of part, it only applies if there has been no severance of the reversion to constitute the whole into parts.

Lastly, there is *Rigby* v. *Waugh* [1931] 100 L.J. K.B. 259. The point at issue in the case was this: A notice was given, and the tenant duly departed. When he had gone the landlords tried to make out that the notice was bad under s. 26, and that therefore the tenancy had been terminated not "by reason of a notice to quit given by the landlord" within s. 12 of the Act, but by the tenant having voluntarily walked out, and that therefore he was not entitled to his compensation. The plea did not succeed. The facts relevant for our purposes were these: On the 11th February, 1929, the landlords wrote to the tenant as follows: "As executors of the late Mrs. Lucy Waugh we contemplate selling the property and we therefore have no alternative but to give you notice to give up possession," on certain dates. A week or two later the tenant replied: "I beg to acknowledge the receipt of your letter of February 11th and the notice to quit. We are sorry to leave; and will give up possession" on the dates mentioned. The contract for sale was not until May, 1929. The court held that the tenant's letter, though in pretty vague terms, and making no specific reference to the intended sale, was a sufficient agreement "that such notice

shall be valid," and that the notice was therefore good. It is perhaps not presumptuous to remark that the court's mind may have been influenced by the fact that the defendants' case had really no merits about it. But, in spite of that, the authority seems to be of general application, and it appears that the notice will be good with little or nothing more but a written acceptance of the notice by the tenant. It does not appear whether the fact that the landlords referred to their intention to sell had anything to do with the general rule, but it would perhaps be safest for such a reference to be incorporated in the notice to quit. It would perhaps be desirable to send with the notice a short form of letter accepting it for the tenant to sign. In view of what I said above about sales by executors, it is as well to remember that in this case the lady to whom the land had belonged was already dead when the notice was given, and therefore the executors were themselves the "persons by whom the notice to quit was given."

It is not worth while to speculate about the meaning or intention of this extraordinary section, but it will be sufficient to have drawn attention to it, and to recommend that all solicitors who are concerned with the sales of agricultural land should be on their guard against it. It is also, I think, permissible to express the hope that the Legislature may soon be prepared to reconsider it.

Landlord and Tenant Notebook.

Lifts.

ACCIDENTS in which lifts have played a part have not given rise to so many reported cases as those which have settled the rights and liabilities of landlords, tenants and others, in respect of common staircases. The principles settled by the "common staircase" authorities have, of course, sometimes been found applicable to the facts established in lift accident cases. Still, it may be useful to collect and arrange by themselves those decisions which illustrate the position of the landlord when a tenant or some third party is involved in an accident of this character.

In the first reported case, *Steer* v. *The St. James' Residential Chambers Co.* (1887), 3 T.L.R. 500, the plaintiff met with the accident when paying a visit to a tenant of a second floor flat in a building owned by the defendants. Being misdirected by, or having misunderstood the directions given by, the porter, he proceeded to the second floor by the staircase, but then opened and stepped through a door which gave admittance to the lift shaft. The lift being elsewhere, he was severely injured. The defendants were held liable for negligence, and contributory negligence was negatived. Though a good deal was said about the plaintiff being or not being the tenant's, not the defendants', invitee or licensee, I do not think that such authorities as *Fairman* v. *Perpetual Investment Building Society* [1923] A.C. 74, C.A., have affected the validity of this decision. The plaintiff's evidence was that the passage was badly lighted, and it was common ground that the door looked like any other door, so the elements of a "trap" were present. But it should be borne in mind that *Fairman* v. *Perpetual Investment Building Society* limited liability towards tenants' guests to cases of concealed danger, and overruled *Miller* v. *Hancock* [1893] 2 Q.B. 177, C.A., accordingly.

An accident occasioned by a goods lift gave rise to *Powell* v. *Thorndike* (1910), 26 T.L.R. 399, the lift being of the type, to be found in some buildings, used for the delivery of articles delivered by tradesmen. The plaintiff was a domestic servant who sustained head injuries when someone on a lower floor pulled the lift down just as she was removing a parcel. She sued both her employer and the owner of the flat. Whether she sued the former *qua* employer or *qua* occupier, the case against him was dismissed by the court of first instance which, however, awarded damages against the other defendant. The latter appealed, and in the result the Divisional Court allotted the whole blame to the impatient person on the lower floor, who was never sued. As regards the appellants, the issue depended on which of two staircase authorities applied: *Miller* v. *Hancock* [1893] 2 Q.B. 177, C.A., or *Huggett* v. *Miers* [1908] 2 K.B. 278, C.A. The former was a case in which a visitor succeeded against landlords of flats as being the occupiers of the unlet portions; but, as was pointed out, its effect was explained by the later authority, which limited the extent of the duty to negligence. (And, as already mentioned, it has since been overruled.) Here, if the goods lift were used in the ordinary way (and it had been in use for eighteen years without any accident occurring), it was safe.

Both *Steer* v. *St. James' Residential Chambers Co.*, and *Huggett* v. *Miers*, but not *Powell* v. *Thorndike*, were mentioned in the course of a case since decided by the Supreme Court of New Zealand. In this case, *Connor* v. *Nelson, Moate & Co.* [1925] N.Z.L.R. 123, tenants of the top floor of a building, were the defendants. The plaintiff's injuries were occasioned by the collapse of an ill-fitting guard-rail which had been placed across the opening, no doubt with the best of intentions, by one of the defendants' servants. It was decided that the servant had acted outside the scope of his authority in so doing, and after that the question resolved itself into one of occupancy. The two English decisions were cited in one of the judgments as showing that the tenants were not occupiers.

Before leaving the subject of accidents, mention should be made of liability to passers-by in respect of goods lifts and hoist holes used for conveying goods between cellars and pavements. It was decided in *Hadley* v. *Taylor* (1865), L.R. 1 C.P. 53, that an intending tenant who had taken possession was liable, as occupier and for nuisance, to a user of the highway who was injured by falling down the shaft of a hoist of this character. The intending landlords were not made defendants; but one passage in the judgment seems to strike a prophetic note: "It may be that others are liable also." How this can be the case has been illustrated by *Wilchick* v. *Marks and Silverstone* (*Silverstone, Third Party*) [1934] 2 K.B. 56.

Another question which has arisen in connection with lifts is, who has the right to use them? In *Procter* v. *Moir* (1889), 5 T.L.R. 682, the answer was a matter of construction. The twenty-one-year lease of a fifth floor flat, granted by the defendant to the plaintiff, gave the tenant "the use and enjoyment of the coal cellar and wine cellar in the basement of the said mansion, together with the use in common with the lessor and the other tenants at all times of the entrance hall, staircases, passages and lifts leading to the suite of rooms hereby demised and to the said cellars." There were two lifts, one for passengers and the other for goods. Neighbours of the tenant objected to his servants, three in number, using the passenger lift. The landlord sided with the neighbours. The tenant sought an injunction to prevent him from interfering with the user by his servants. It was held that more than a mere personal right was conferred by the clause of the lease cited above, and pointed out that the construction contended for would entitle the landlord to exclude servants from the staircase as well as from the passenger lift. There was, according to the statement of facts, one difference between the position of the stairs and hall and that of the lifts; the lease made the landlord responsible for the upkeep of stairs and hall, but was silent as to the lifts. It is difficult to see which side this factor was supposed to help. But if the question should ever arise whether a lift-cage be a chattel or realty, I think it could be said with confidence, having regard to many respected authorities, that it would be considered to be constructive realty.

No case appears to have been reported in which the grantee's right to use a lift expressly mentioned was in issue. Should such an event arise, there is no doubt that recourse would be

had to *Allport* v. *Securities Corporation* [1895] 64 L.J. Ch 491, in which a tenant complained of the removal of a staircase. Another staircase was at his disposal, but it was less conveniently situated; and, basing his claim on the covenant for quiet enjoyment, he succeeded in obtaining a mandatory injunction for the restoration of the one he had been accustomed to use.

Our County Court Letter.

HIRE-PURCHASE AND DEPRECIATION.

In a recent case at Bakewell County Court, viz., *Gosford Furnishing Co. Ltd.* (*trading as Jays' Stores*) v. *Wilson*, the claim was for £19 16s. 9d., due under a hire-purchase agreement. The latter provided that, if the goods were returned or re-taken before the payments amounted to £20 9s. 9d., the defendant would pay the difference between that sum and the total payments made by him. The total amount paid was only £1 3s., and the goods had then been returned. The plaintiff's case was that it was immaterial to consider whether there had been any depreciation in fact, as the clause was in the agreement, and "depreciation" covered the cost of carriage, etc. The defendant's case was that there had been misrepresentation, and exorbitant charges, as he had been told that the goods were the finest value obtainable. Nevertheless he could have bought better goods elsewhere for less money. The furniture had been returned unused only fifteen days after delivery, and there had been no depreciation. His Honour Judge Longson observed that, if the goods had been kept fifteen months, the defendant would have had to pay less than the amount claimed after only fifteen days. Nothing turned on the statement that the goods were the best at the price, which was found in most advertisements, and there had been no misrepresentation. The defendant had signed the agreement, and it was no defence that he could have obtained more favourable terms elsewhere. The plaintiffs did not press for the full amount, and judgment was given in their favour for £10 and costs.

THE REMUNERATION OF VETERINARY SURGEONS.

In *McIntyre* v. *Tindle*, recently heard at Malmesbury County Court, the claim was for £70 as damages for negligence, and the counter-claim was for £4 4s. as the fees for veterinary services. The plaintiff's case was that, having seen a horse in Oxfordshire he agreed to buy it for £70, subject to a veterinary certificate. The latter was furnished by the defendant, who carried out the examination. The price was paid, but the horse made a grunting noise the day after reaching the plaintiff's premises. The horse did not improve, and a second veterinary surgeon formed the opinion that the horse was gone in the wind, and was a "roarer"—a condition which must have been present for some time. This opinion was confirmed by a third veterinary surgeon. The defendant's case was that, when he saw the horse, it galloped, kicked, reared and plunged in every direction. No sound of wind trouble was apparent, and the horse was then neither a whistler nor a roarer. Later there was still no whistling or roaring, although the horse seemed to be recovering from an illness. Corroborative evidence was given by the Principal and Dean of the Royal Veterinary College (Sir Frederick Hobday) who on the 4th September would have been prepared to have certified that the horse was not suffering from paralysis of the larynx. There was only a soft noise, like a horse out of condition. His Honour Judge Kirkhouse Jenkins found that, on the 29th May, the horse was not suffering from paralysis of the larynx. The defendant, in testing the horse, had acted in a way recognised by surgeons of competence and distinction who had given evidence. Judgment was given for the defendant on the claim and counter-claim, with two experts' fees, but without costs, by agreement.

RECENT DECISIONS UNDER THE WORKMEN'S COMPENSATION ACTS.

COSTS ON REDUCTION OF COMPENSATION.

In *Isher* v. *Wallis*, at Cheltenham County Court, an application was made for a review. The respondent was a carpenter, and had fallen from a scaffold on the 28th June, 1935. A bone in his heel was broken, and his average earnings had been £2 a week. Compensation had been paid at £1 16s. 1d. a week. The respondent resumed work for the applicant in January, 1936, and earned £1 14s. a week for ten weeks, when he was stopped through a shortage of work. In July a doctor certified that the respondent could do any carpentry, and, after six weeks, would be able to mount ladders. There was now free movement of the foot, as the respondent had been riding a bicycle, and the application was for a reduction of the compensation from 12s. 1d. to 9s. 1d. a week. The respondent's case was that he had difficulty in riding a bicycle, and could not stand for more than ten minutes without pain. Medical evidence was given that the disability was permanent, and the respondent would not be able to do work involving walking or standing. His Honour Judge Kennedy, K.C., held that the respondent was still disabled, but (in view of his last earnings) the compensation should be reduced to 9s. 1d. Nevertheless the respondent was substantially right in his contention, and was entitled to costs.

ACCIDENT TO RAILWAY SHUNTER.

In *Mellor* v. *London Midland & Scottish Railway Co.*, at Burton-on-Trent County Court, an award was claimed by reason of an accident to the applicant, who had suffered a fracture of the left ankle and amputation of the right leg. The applicant had been propelling a number of trucks from sidings, to make up a train on the main line. While riding on a shunting pole, at the side of the second wagon, the applicant was knocked off the pole at the switchpoint by a lever, which was lying the wrong way. The respondents' case was that the applicant was not engaged to couple or uncouple wagons, as his work was mainly clerical. The accident therefore did not arise out of his employment. Moreover, the applicant was doing an obviously dangerous and unreasonable thing, in riding on a shunting pole. As this was an added peril, the accident had not arisen in the course of his employment. In a reserved judgment, His Honour Judge Longson upheld the submission that the applicant was not engaged to couple or uncouple wagons. Nevertheless the applicant was entitled to call himself an assistant shunter, and had therefore not been doing work other than that for which he was engaged. As regards the alleged added peril, the practice in question was not unknown, and it would not be held to be peculiar or grossly negligent. An award was therefore made for total incapacity and costs.

THE RISKS OF WINDOW CLEANERS.

In *Rogers* v. *Hadfield*, at Bakewell County Court, the applicant's case was that she was a dependant of her deceased son, who had been a window cleaner in the employ of the respondent. The evidence was that the deceased had been cleaning windows at The Mount, Bakewell, when he fell and sustained a broken neck. Liability was denied on the ground of added peril, as the deceased had stepped from a ladder on to a pipe, which supported an electric light bracket, on the outside of The Mount. This was alleged to be an act which no reasonable person would perform. Corroborative evidence was given that, after the accident, the pipe was broken and the lamp was resting on a canopy. Soil, which had come from the deceased's boots, was afterwards found on the pipe, which had given way under the weight of the deceased. The case for the applicant was that the deceased was a careful workman, and there was not much room for anyone to stand on the canopy. His Honour Judge Longson held that there was no evidence of added peril, and that the applicant was entitled to an award.

To-day and Yesterday.

Legal Calendar.

5 October.—The middle of the eighteenth century saw belief in witchcraft dying, but not dead. We read that on the 5th October, 1769, "William Adams, of Granchester, and his wife, having been indicted at the Quarter Sessions for Cambridge for the ill-treatment of Phoebe Haly, of Caldecot, a supposed witch, severally pleaded guilty: and having first agreed to pay the poor woman five guineas, the Court fined the man 13s. 4d. and dismissed them with a severe reprimand."

6 October.—Sir John Bramston, formerly Chief Justice of the King's Bench, died in September, 1654. "He was buried the sixth of October following. Dr. Michelson buried him in Roxwell Church according to the prescribed forme in the Common Prayer: his funerall sermon was preached by Mr. Richard Argoll . . . Very manie of the gentlemen of the countrie attended his corps to the grave (tho' none were invited, it beinge his express command that it should be with as little pompe as was possible), and all the neighboringe yeomanrie that had any regard to loyaltie," for the judge had been a faithful Royalist in the troubles of the time.

7 October.—On the 7th October, 1762, in a small shop in the precincts of Canterbury Cathedral, Charles Abbott was born. His father carried on a respectable business as a hairdresser and wigmaker and had the care of the heads of the whole Chapter in his hands; he had even thrice prepared the Archbishop for his trienniel charge to his clergy. Young Charles got his chance when he was admitted on the foundation of the King's School connected with the Cathedral. He was "grave, silent and demure, always studious and well-balanced . . . recommending himself to all who saw him and knew him by his quiet and decent demeanour," and he became Lord Chief Justice Tenterden.

8 October.—Here is a piece of forgotten Temple history. On the 8th October, 1765, an extraordinary phenomenon was seen about nine at night in different parts of England. In London "at first a light was observed on the gravel and paved walks of the Temple, bright enough to pick up a pin; then a globe of ruddy fire as large as the full moon a little after rising was seen descending from a great altitude over Temple Bar and taking its course obliquely towards the Thames as if it would have fallen therein, but having just reached the water it shot itself into a sheet of fire with one edge turned towards the river." It vanished on the Southwark side.

9 October.—Mr. Serjeant Leeke, who died on the 9th October, 1687, at the age of fifty-seven, presented a unique instance of a judge appointed to the Bench immediately abdicating from an unsought elevation, for having been appointed a Baron of the Exchequer in May, 1679, he resigned before three weeks had passed, "*moderationis plane singularis rarum exemplum*," as his epitaph in Wimeswould Church says. At the Bar he always took pains to discourage his clients from litigation.

10 October.—On the 10th October, 1841, Sir John Bayley, formerly a Justice of the King's Bench, died at The Vine House, near Sevenoaks.

11 October.—On the 11th October, 1869, the first private execution in the West of England under the Capital Punishment Amendment Act was performed on William Taylor, a private of the 57th Regiment of Foot, condemned to death for shooting a corporal out of revenge for a punishment drill. The execution took place at Exeter, a black flag being hoisted on the gaol when the drop fell. Only a few stragglers collected in the road outside.

The Week's Personality.

Sir John Bayley, who did service in the Courts of Exchequer and King's Bench for over twenty-five years, came very near to being the ideal judge. "He did not talk very wisely on literature or on the affairs of life, but the whole of the common law of this realm he carried in his head and in seven little red books. These accompanied him day and night; in these every reported case was regularly posted and in these, by a sort of magic, he could at all times instantaneously turn up the authorities required." To this profound knowledge he added a strict impartiality and notable quickness of apprehension. The ease with which he got through his work once caused a French observer to exclaim: "Il s'amuse à juger." After having been senior puisne of the King's Bench for some years, he transferred to the Exchequer in 1830, but in 1834, when he was over seventy, he decided to resign, receiving the honour of a baronetcy and a place in the Privy Council. Few men in his position have won such universal esteem; his fellow judges, the members of the Bar and the litigants before him all acknowledged his pre-eminence.

Guilty or Not?

The bare alternatives of "Guilty" or "Not guilty" still continue to give difficulties to accused and juries alike. Recently, when the clerk at Marylebone Police Court asked a man whether he was guilty or not guilty, he replied: "Well, say half-and-half." Again, when a jury at the Old Bailey acquitted a man during these sessions, the foreman said that they would like to add a rider that the prisoner had really been given the benefit of the doubt, but Greaves-Lord, J., would have none of that. "If a man has been found not guilty," he said, "he is not guilty. That is all there is to say." Still, the benefit of the doubt is better than the worse of the doubt. A Worcester jury once convicted a man, but recommended him to mercy on the ground that there was some doubt as to his identity, and a Devon jury once convicted a prisoner of stealing hay, adding the rider: "We don't think he done it, but there's been a lot taken hereabouts by someone."

First Hand Knowledge.

News of two personal experiments by judicial persons comes from Weymouth and from Pennsylvania. In the former place, the chairman of the local bench has decided to go on a tramp to investigate conditions in the East End. In the latter place, Judge Musmanno, on being appointed to the Pittsburgh Criminal Court, began by sentencing himself to three days' imprisonment, because, he said, "a judge should know something of the environment and daily routine of a prison." Contrary to his wishes, the penitentiary authorities insisted on his going home every night. The experiment is not quite so novel as it might seem, for it is recorded that in 1883, during a tour of Armley Gaol, at Leeds, Mr. Justice Day insisted on trying the treadmill. Wearing his heavy inverness, he found the experience more tiring than he had expected, and said to the warder in charge: "If it is your custom to carry your duty so far as this, I shall have to reduce my sentences."

Mr. J. W. Bowker has resigned from the office of Clerk to the Whittlesey Justices. His family has been associated with the Whittlesey bench for more than a century. His father was clerk for more than fifty years and his grandfather chairman for a long period. Mr. Bowker was admitted a solicitor in 1907.

An Ordinary Meeting of the Medico-Legal Society will be held at Manson House, 26, Portland Place, W.1, on Thursday, 22nd October, at 8.30 p.m., when a paper will be read by Mr. C. E. A. Bedwell, on "Legal Status of Voluntary Hospitals." Members may introduce guests to the meeting on production of the member's private card.

Obituary.

SIR PERCIVAL CLARKE.

Sir Edward Percival Clarke, Chairman of the County of London Sessions, died in London on Monday, 5th October, at the age of sixty-four. The eldest son of the late Right Hon. Sir Edward Clarke, K.C., he was educated at Eton and Trinity Hall, Cambridge, and was called to the Bar by Lincoln's Inn in 1894. He was elected to the General Council of the Bar in 1900. In 1905 he was appointed counsel to the Board of Trade in bankruptcy and companies winding-up cases, and in 1912 he became a Treasury counsel at the Central Criminal Court. He was appointed Recorder of Exeter in 1922, and he was elected a Bencher of his Inn in 1925. In 1928 he was made senior prosecuting counsel to the Crown, and in 1932 he was appointed Chairman of the County of London Sessions. He received the honour of knighthood in 1931.

MR. P. M. WALTERS.

Mr. Percy Melmoth Walters, Barrister-at-Law, of Old Square, Lincoln's Inn, died at Ashstead on Saturday, 3rd October, at the age of seventy-three. Mr. Walters, who was called to the Bar by Lincoln's Inn, in 1888, was a Bencher of his Inn and was one of the Conveyancing Counsel of the High Court of Justice. He was, in his younger days, an International football player, being the P.M. of that famous Corinthian pair, A.M. and P.M., who represented that club as full-backs in the days of its greatest fame.

MR. J. V. EDWARDS.

Mr. John Vaughan Edwards, solicitor, a partner in the firm of Messrs. Gee & Edwards, of Swansea, died on Monday, 5th October, at the age of sixty. Mr. Edwards, who was admitted a solicitor in 1898, was a past president of the Swansea and Neath Incorporated Law Society. In 1913 he was appointed the first Chairman of the Court of Referees for South-west Wales under the Unemployment Act, and he was also an official referee to the County Court in compensation and relief cases under the Landlord and Tenant Act, 1927.

MR. H. NUNN.

Mr. Harry Nunn, solicitor, head of the firm of Messrs. Nunn & Richardson, of Kidsgrove, Staffs, died recently at the age of seventy-one. Mr. Nunn, who was educated at St. John's College, Cambridge, was admitted a solicitor in 1895. He had been Clerk to the Lawton Parish Council since its formation more than twenty years ago.

MR. H. A. PICKUP.

Mr. Henry Arthur Pickup, solicitor, of Lancaster, died recently at the age of fifty-one. Mr. Pickup, who was admitted a solicitor in 1907, had practised at Blackpool for many years. He was formerly honorary secretary to the Blackpool, Fleetwood and Fylde District Law Society.

H.M. the King has been pleased to approve the grant of a supplemental charter to the Chartered Institute of Secretaries for the purpose of the fusion of the Incorporated Secretaries Association with the institute and the Lords of His Majesty's Privy Council have allowed sundry amendments in the bye-laws of the institute for the same purpose. The fusion will be made effective as from a date to be agreed upon, notice of which will be given to members in due course.

The following days and places have been fixed for holding the Autumn Assizes on the Midland Circuit: Mr. Justice Atkinson—Monday, 12th October, at Aylesbury; Thursday, 15th October, at Bedford; Monday, 19th October, at Northampton; Friday, 23rd October, at Leicester; Saturday, 31st October, at Lincoln; Saturday, 7th November, at Nottingham; Tuesday, 17th November, at Derby; Tuesday, 1st December, at Warwick. Mr. Justice Humphreys and Mr. Justice Atkinson—Saturday, 5th December, at Birmingham.

Notes of Cases.

Judicial Committee of the Privy Council.

Browne *v.* Moody and Others.

Lord Atkin, Lord Russell of Killowen, Lord Macmillan, Lord Alness, and Sir Michael Myers. 9th and 27th July, 1936.

ONTARIO—WILLS—DIRECTION TO PAY LEGACY AT FUTURE DATE—NO WORDS OF PRESENT GIFT—NO CONDITION PERSONAL TO LEGATEE—WHETHER LEGACY VESTED *a morte*—EFFECT ON VESTING OF GIFT OVER TO LEGATEE'S ISSUE ON HIS DEATH BEFORE A CERTAIN EVENT.

Appeal from a judgment of the Supreme Court of Canada (Sir Lyman Poore Duff, C.J., and Rinfret, Smith, Cannon and Hughes, JJ.), dated the 6th March, 1934, affirming a judgment of Rose, C.J., of the High Court of Justice for Ontario dated the 25th March, 1933.

The testatrix died in March, 1930. She was survived by a son, three daughters and a grand-daughter, the appellant, the daughter of her son. By her will, made in 1929, the testatrix appointed executors, and, after certain special bequests to her son, gave directions with regard to a sum of $100,000 in the following terms: "Whereas I have . . . $100,000.00 invested in the name of E. H. Watt . . . I hereby direct that the . . . fund is to be continued to be invested by . . . Watt during the lifetime of my . . . son and the income . . . is to be paid to my . . . son during his lifetime. In the event of the death of . . . Watt during the lifetime of my . . . son the fund . . . shall be invested by my executors in . . . trustee investments and the income . . . is to be paid to my . . . son during his lifetime. On the death of my . . . son . . . the . . . fund . . . is to be divided as follows: One half . . . to my grand-daughter . . . the remainder . . . to be divided equally between my daughters . . ." By cl. 7, in the event that the grand-daughter or any of the daughters should predecease the son leaving issue, the child of the person dying was to take the interest to which the mother would have been entitled had she survived. All three daughters were still living and had issue; the son and grand-daughter were likewise still living. In 1932, by originating motion in the High Court Division of the Supreme Court of Ontario, at the instance of the son, who was also an executor, the question was raised whether the daughters and grand-daughter had vested interests in the fund. When the proceedings began the grand-daughter was an infant and was, with the unborn children of the daughters, represented by the Official Guardian. During the proceedings the grand-daughter came of age, being the present appellant. Rose, C.J., regarding himself as bound to follow the decisions in *Re Gilmour* (1932), 41 O.W.N. 344, and *Re Gaukel* (1932), 41 O.W.N. 215, 365, which had been held to be covered by the rule in *Bosch* v. *Eastern Trust Co.* [1928] S.C.R. 479, held that the daughters and grand-daughter acquired no vested interest in the fund at the testatrix's death. *Busch's Case, supra*, having previously been followed by the Court of Appeal in Ontario in several cases involving the same question, leave to appeal direct to the Supreme Court of Canada was granted. Two questions were left to the Supreme Court: (1) Whether the legacies became vested at the testatrix's death, and (2) if so, whether the legacies were liable to be divested under cl. 7. The Supreme Court answered (1) in the negative; (2) therefore did not arise. *Cur. adv. vult.*

LORD MACMILLAN, delivering the judgment of the Board, said that the grounds of decision of the Supreme Court were, *inter alia*, that there were no words of present gift to the grand-daughter and daughters. Their lordships did not find in the testatrix's language the meaning which the Supreme Court had distilled from it. She had made her dispositions in terms of very ordinary occurrence, from which, in a long series of cases, the courts had drawn a contrary inference with regard to intention. Firstly, the date of division of the fund

was a *dies certus*, since the son's death must take place sooner or later. Secondly, the direction to divide the capital on that *dies certus* was not accompanied by any condition personal to the beneficiaries, e.g., their attainment of majority. The object of the postponement of division was obviously only in order that the son might enjoy the income during his life. The distinction between a present gift coupled with a postponement of the date of payment and a direction to pay at a future date without any words of present gift was no doubt an important distinction in certain circumstances. But where there was a direction to pay the income of a fund to one person during his lifetime and to divide the capital among named persons on his death, even although there were no direct words of gift either of the life interest or of the capital, the rule was that vesting of the capital took place *a morte testatoris* in the remaindermen. The principle was stated in "Jarman on Wills," 7th ed., at p. 1377. Their lordships referred to the admirable opinion of Middleton, J.A., in *Re McFarlane* [1934] O.R. 383, at pp. 387 *et seq.* The judge in that case felt himself constrained, with his colleagues of the Court of Appeal for Ontario, to bow to the decision in *Busch's Case, supra*, but he indicated that otherwise he would have reached a different conclusion. Their lordships were of opinion that the law was correctly stated in the quotations from "Theobald on Wills," 8th ed., at p. 656, and from the judgment of Sir W. Page-Wood, V.-C., in *In re Bennett's Trust* (1857), 3 K. & J. 280, at p. 283, to be found in Middleton, J.'s, judgment. If the principle was indeed laid down in *Busch's Case, supra*, that, if there were no words of present gift, but only a direction to pay or divide at a future time, vesting was postponed to that future time, their lordships could not countenance it. The first question submitted to the Supreme Court must therefore be answered in the affirmative. As to the second question, in their lordships' opinion, the contingency of death "leaving issue," with the gift over to the issue in that event, was effectual to render the legacies subject to divestiture in that event. The contingency did not prevent vesting *a morte*, but it prevented that vesting from being absolute. In their lordships' opinion the appeal should be allowed.

COUNSEL: *Radcliffe*, K.C., and *Russell Snow*, K.C., for the appellant; *The Attorney-General of Ontario* (Hon. A. W. Roebuck, K.C.) and *G. P. Slade*, for the Official Guardian; *G. A. Urquhart*, for the executors.

SOLICITORS: *Lawrence, Jones & Co.; Blake & Redden.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Aaronson and Others *v.* Ghadieh and Others.

Lord Thankerton, Sir John Wallis and Sir George Rankin.
3rd and 27th July, 1936.

PALESTINE—LAND SETTLEMENT—DECISION BY SETTLEMENT OFFICER THAT CERTAIN LAND OUTSIDE VILLAGE UNDER SETTLEMENT—FURTHER DECISION AS TO TITLE TO THAT LAND—VALIDITY—"DECISION . . . AS TO ANY RIGHT TO LAND"—RIGHT OF APPEAL FROM SETTLEMENT OFFICER'S DECISION—PALESTINE LAND SETTLEMENT ORDINANCE (No. 9 of 1928), ss. 3, 5, 56, 57, 58—LAND SETTLEMENT ORDINANCE (No. 18 of 1930), s. 16.

Appeal by special leave from a judgment of the Supreme Court of Palestine, dated the 12th January, 1933, dismissing an appeal from a judgment of the Haifa Land Court, dated the 18th July, 1932, dismissing an appeal from a decision of a land settlement officer, dated the 26th June, 1931.

Under s. 3 of the Palestine Land Settlement Ordinance, a settlement order was issued in April, 1929, ordering a settlement and registration of rights in land within the boundaries of the Villages of Hudeira (Haifa Sub-district) and Attil and Zeita (Tulkarem Sub-district). In May, 1929, a preliminary notice as prescribed by s. 5 of the Ordinance was issued of the intended settlement and registration of rights in Hudeira. That village thus became a village under settlement, and the lands in it came under the settlement officer's jurisdiction. The appellants were registered in the Haifa Land Registry as absolute owners of land known as Khor al Wasa', and held title deeds accordingly. The entry in the register described Khor al Wasa' as being within the boundary of Hudeira. The respondents, as plaintiffs, submitted to the settlement officer their claims to be entitled to the land, and they contended that it lay within the boundaries of Zeita and formed part of the Musha' lands of Raml Zeita. The appellants, as defendants, claimed that the land was in Hudeira, and their property by virtue of the registration in the Haifa Land Registry. The settlement officer held, on the evidence resulting from a prolonged public inquiry, that Khor al Wasa' was (*a*) outside the boundaries of Hudeira, and (*b*) within the Kushan boundaries of Raml Zeita. He also stated in his judgment that he had, therefore, no jurisdiction to consider the defendants' claims. The Haifa Land Court, in its judgment dismissing the defendants' appeal from the settlement officer's decision, said that it appeared to them not to matter very much how the officer decided the question of boundaries so long as the rights of individuals were not affected, but they went on to uphold the officer's finding with regard to the title to the land. The Supreme Court dismissed the defendants' appeal because they held, on the Land Settlement Ordinance, 1930, that it was not competent as the officer's decision was not one "as to any right in land." Special leave to appeal to the Privy Council was granted on the undertaking that the officer's decision as to the boundaries should not be questioned in the appeal, as it was an administrative question, and that the appeal should be confined to a challenge of the decision as to title. *Cur. adv. vult.*

LORD THANKERTON, delivering the judgment of the Board, said that their lordships were clearly of opinion that the officer's decision was one as to rights in land, in so far as it held that Khor al Wasa' formed part of the Musha' lands of Raml Zeita, a finding that necessarily excluded the title relied on by the defendants appellants. They were also of opinion that the officer's judgment was outside his jurisdiction and *ultra vires* in so far as it dealt with questions of rights to land outside the Village of Hudeira which was under settlement and that, accordingly, the finding that the area of Khor al Wasa' (which he had held to be outside the boundaries of Hudeira) was Musha' land, along with the consequential directions as to entries in the Land Registries of Haifa and Tulkarem, was beyond his powers. It was remarkable that the settlement officer had made those findings in spite of his correct view with regard to the extent of his jurisdiction. The Land Court appeared to have accepted this view also, but they had equally failed to give effect to it. The Supreme Court had only considered the competency of the appeal. In defining the boundaries of the Village of Hudeira, the settlement officer was entitled to find that the area of Khor al Wasa' was not in Hudeira, but within the boundaries of Zeita and/or Attil; that was a purely administrative finding. But, in the opinion of their lordships, his judgment ought to be varied by excluding from the findings any finding that the area of Khor al Wasa' was Musha' land, and also the orders with regard to entries in the Land Registries of Haifa and Tulkarem. It should be made clear that their lordships' decision was confined to the question of the jurisdiction of the settlement officer in settling the Village of Hudeira; it did not involve any expression of opinion on the merits of the appellants' claim to part of Khor al Wasa'. That matter would be entirely open to the officer when the villages of Zeita and Attil were under settlement. Their lordships were accordingly of opinion that the appeal should be dismissed.

COUNSEL: *Gover*, K.C., and *Wilfrid Hunt*, for the appellants. (There was no appearance by or on behalf of the respondents, and the appeal was heard *ex parte* by their lordships.)

SOLICITORS: *Stoneham & Sons.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Court of Appeal.

In re White-Popham Settled Estates.

Lord Wright, M.R., Romer and Greene, L.JJ.
30th July, 1936.

Settlement—Tenant for Life—Scheme to Raise Money out of Settled Land—Payment of Tenant for Life's Debts—Repayment secured by Life Assurance—Court's Jurisdiction to Approve Scheme—Settled Land Act, 1925 (15 Geo. 5, c. 18), s. 64.

Appeal from a decision of Eve, J.

The tenant for life of certain lands settled by a re-settlement made in July, 1924, incurred debts of over £6,000. In May, 1936, he applied to the court to sanction a scheme under s. 64 of the Settled Land Act, 1925, under which it was proposed that £6,500 should be raised out of the settled estates by sale or mortgage and that the sum should be applied first to paying the costs of all the parties to the application, secondly, to paying the first year's premium on a policy of insurance for £7,000 on the life of the tenant for life to be effected by him and vested in the trustees of the settlement, and thirdly, to paying the debts of the tenant for life. It was provided that the premiums of the assurance policy should be made payable by the trustees out of the rents and profits of the settled estates during the life of the tenant for life, in priority to all other payments thereout arising under the re-settlement. The tenant for life was also to execute a deed of assignment in favour of the trustees. Eve, J., held that he had no jurisdiction to approve the scheme.

Lord Wright, M.R., allowing the appeal of the tenant for life, said that the scheme was desirable in the interests of the tenant for life and, in a secondary sense, in the interests of the other parties interested that the tenant for life should not be made a bankrupt. The court had jurisdiction under the section. This was a transaction affecting or concerning the settled land, though not for its benefit, but it was for the benefit of one of the persons interested under the settlement. Further, the qualifying words "not being a transaction authorised by this Act" did not cover this transaction when looked at as a whole. The appeal should be allowed and the order asked for made.

Romer and Greene, L.JJ., agreed.

Counsel: *W. T. Elverston; A. C. Nesbitt; W. S. Wigglesworth; G. D. Johnston.*

Solicitors: *Robins, Hay & Waters*, agents for *Batten & Co.*, of Yeovil; *Long & Gardiner.*

[Reported by Francis H. Cowper, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Gaumont British Corporation Limited *v.* Alexander.

Porter, J. 22nd and 23rd July, 1936.

Contract—"Want of Mutuality"—Contract of Service—Film Actress—Restraint of Trade During Currency of Contract — Restraint after Expiration — Observations.

Case stated by an arbitrator.

In December, 1933, the appellant, an actress (the respondent in the arbitration), entered into a contract with the respondent company whereby her services were engaged as a film actress. The appellant having, during the currency of the contract, taken exception to a part which she was asked to perform, the company alleged that she had refused to perform her part of the agreement and stopped payment under it. The dispute having been submitted to arbitration, the arbitrator awarded the company £1,530 damages subject to the opinion of the court on, *inter alia*, the questions whether (*a*) the contract was void for "want of mutuality"; (*b*) it was against public policy as being in unreasonable restraint of trade. The material provisions of the contract are more fully referred to in the course of the judgment.

Porter, J., said that he was very familar with the phrase "want of mutuality" in cases where it was contended that parties had not entered into a contract because they had not agreed one with the other on all the terms. He was less familiar with it as used in this case, where it appeared to mean that there had been no, or no real, consideration for the contract. The court could not enquire into the adequacy of consideration, so that the question was whether there was any. He, his lordship, could not say there was none. He did not need to go further than the fact that there was a promise that the appellant should at any rate have the opportunity of earning £6,750 a year. Admittedly she took the risk of several possibilities that might prevent her from earning that sum or the whole of it. That fact did not make the contract one for which there was no consideration. An example of where parties entered into a contract in which they took certain risks was the class of contract in which it was left absolutely to the discretion of an architect to decide whether the terms of the contract had been fulfilled or not. It had never yet been held that there was no consideration for such a contract, because, in his absolute discretion, reasonable or not, the architect was left to decide what, if anything, was due. A corresponding advantage was gained in return for the risk, and that was the consideration. Other terms in the contract had been referred to as disadvantageous. They might, if the terms of the contract were insisted on strictly, prove very disadvantageous to the appellant, but of that she took the risk. With regard to the question of public policy, he knew of no case, although there might be one (he did not propose to decide that), where it would be held that a restraint during the progress of the contract was an undue restraint. Indeed, in most cases where a person entered into a contract of service a condition was imposed that he should occupy himself solely with the business of those whom he served. In a matter of this kind, he (his lordship) would not lightly disturb the arbitrator's finding that the contract was, at any rate in this respect, not unreasonable. Clause 8 provided for the exclusiveness of the services rendered to the company by the appellant. It also contained a separate condition preventing her, after the expiration of the contract, from repeating anything that had formed part of or been introduced into her work. He (his lordship) had had much doubt about that condition in cl. 8, because it seemed to tie the appellant for ever from reproducing songs, dialogue or speech which had formed part of her work for the company. He was, however, unable to say that the arbitrator could not have found on the evidence before him that that condition was neither contrary to public policy nor unreasonable for the company's protection. Clause 9 allowed the use by the company for publicity purposes of any photograph taken of the appellant by the company. That seemed to him no more a restraint of trade than the sale by an author of the whole or a part of his literary output. With regard to the appellant's contention that she should not pay damages as well as foregoing her salary, while he sympathised with her position, he would be extending the law if he were to decide that the company were not entitled to withhold the salary and also claim damages. If the appellant did not work, they could stop her salary, but there might easily be circumstances in which they would suffer damage in addition. Accordingly he upheld the arbitrator's award.

Counsel: *Eversheds*, K.C., and *Carthew*, K.C., for the appellant; *van den Berg*, K.C., and *B. B. Stenham*, for the respondent company.

Solicitors: *Burton & Ramsden; M. A. Jacobs & Sons.*

[Reported by R. C. Calburn, Esq., Barrister-at-Law.]

Mr. Tom Ellison Gossling, solicitor, of Bournemouth, left £13,774, with net personalty nil.

Probate, Divorce and Admiralty Division.

Brown *v.* **Brown.**

Langton, J. 6th, 8th and 30th July, 1936.

DIVORCE—VARIATION OF SETTLEMENT—PURCHASE BY WIFE OF ANNUITY FOR HUSBAND—DIVORCE DECREE IN FAVOUR OF WIFE—PETITION TO VARY ANNUITY DEED AS A SETTLEMENT—ANNUITY A GIFT AND NOT A POST-NUPTIAL SETTLEMENT—SUPREME COURT OF JUDICATURE (CONSOLIDATION) ACT, 1925 (15 & 16 Geo. V, c. 49), s. 192.

This was a motion by the wife to vary the report of the registrar on her petition for variation of settlement. The parties were married on 11th September, 1933. The petitioner was a spinster of independent means, aged forty-eight years, and the respondent was a chauffeur, aged twenty-seven years. The marriage was a secret one. Four days after the marriage the petitioner signed a proposal form with the Prudential Assurance Company for an immediate annuity to her husband, and the Prudential Assurance Company thereupon entered into a deed whereby the company agreed both with the petitioner and the respondent, in consideration of the sum of £2,097 10s. 2d. paid by the petitioner, to pay to the respondent or his assigns an annuity of £104. Thereafter the respondent received payment of the annuity down to February, 1935, when he mortgaged his interest for the sum of £800. In February, 1935, the wife was granted a decree of divorce, whereupon she petitioned to vary the agreement for the payment of the annuity as being a post-nuptial settlement within s. 192 of the Judicature Act, 1925. She alleged that in September, 1933, on the representation of the respondent that, owing to the disparity of their ages and his bad state of health, he should be provided with an income in the event of her predeceasing him; she had made an oral agreement with the respondent to make a post-nuptial settlement and to purchase an annuity on his life. She prayed that, as the purpose of the settlement had been frustrated by the respondent's conduct, his interest therein should be extinguished, so as to create a resulting trust in her favour, as settlor, absolutely, subject to the mortgage. By his answer the respondent alleged that the annuity was a free gift by the petitioner to himself and was an absolute assignment. The learned registrar in his report held that the purchase of the annuity was not a settlement capable of variation within the meaning of the section.

LANGTON, J., in the course of delivering a considered judgment confirming the report of the learned registrar, said that the plain point at issue was simply whether the annuity was a settlement or a gift. A tantalising aspect of the matter was that the point was very nearly covered by authority, which was not only binding upon him, but which he would readily and gladly follow. Indeed, if it were right and fair to extract a single passage from a judgment and to apply the words there used in a merely literal sense, without taking into consideration the occasion of their use and the general context, it would be claimed that Romer, L.J., when sitting in the Court of Appeal before he became a regular member thereof, had actually covered the case. In *Bosworthick* v. *Bosworthick* [1927] P. 64, at p. 72, Romer, J., said: "We have had numerous authorities cited to us going as far back as 1861, and amongst them an authority which is binding on this court, and in my judgment these authorities establish that, where a husband has made a provision for his wife, or a wife for her husband, in the nature of periodical payments, that amounts to a settlement within the meaning of the section." But he (his lordship, Langton, J.) could not shut his eyes to the fact that the real point under discussion in *Bosworthick's Case* (*supra*) was whether an annuity secured by a bond could be treated under s. 192 as a settlement, and that Romer, J., was only purporting to decide what was before him and before the rest of the court, namely, whether a bond was a settlement. Similarly, if the headnote in *Worsley* v. *Worsley and Wignall* (1869), L.R. 1 P. & D. 648, could be taken at its face value, the problem would be resolved. It said: "All deeds, whereby property is settled upon a woman in her character as wife, and to be paid to her whilst she continues a wife, come within the scope of 22 & 23 Vict., c. 61, s. 5, and the court has power to deal with them." The annuity deed in the present case was certainly a deed, but on examination of the facts, the argument and the judgment in *Worsley's Case*, *supra*, it was clear that what was really occupying the court was whether a separation deed between the husband and wife partook of the character of being post-nuptial. Again, in *Melvill* v. *Melvill and Woodward* [1930] P. 159; 74 SOL. J. 233, Lord Hanworth, M.R., concluded his review of the authorities with a commendatory citation of almost the whole of the short judgment of Romer, J., already referred to. The argument put on behalf of the respondent might be summarised in a sentence, viz.: This annuity is a gift and not a settlement. In order to discover the meaning of the word "settlement" in this conjunction, it was not necessary to look at the text-book on conveyancing, but only to the words and the intention of the statute itself. But if it was found that the transaction in question contained none of the attributes of a settlement and all, or practically all, the attributes of a gift, it would seem that a point had been reached where it was time to call a halt in the very desirable expression of the ambit of the section. In *Hubbard* (*otherwise Rogers*) v. *Hubbard* [1901] P. 157, the Court of Appeal had held decisively, and almost without troubling to give reasons for their decision, that an absolute assignment of a leasehold house and furniture to a wife was not a settlement, and none the less so because the property happened to have passed through the hands of trustees. For his (his lordship's) part, it appeared to him that the payment of a sum of money to an insurance company to purchase an annuity for the respondent came closer to the analogy of an assignment of property or goods than to any parallel that could be drawn from a bond. Accordingly he felt more nearly bound by *Hubbard's Case*, *supra*, than by that of *Bosworthick*, *supra*, but even if he were not bound, since the decision was not directly in point, he could not distinguish the present annuity from a gift. It was to be observed that the covenant to pay was with the respondent as well as with the petitioner, and it appeared to him (his lordship) that when once the petitioner had handed over the consideration money, she had parted with the *plenum dominium* of the property so transferred.

COUNSEL: *Noel Middleton*, K.C., and *J. F. Compton Miller*, for the petitioner; *J. Norman Daynes*, K.C., and *F. L. C. Hodson*, for the respondent.

SOLICITORS: *Church, Adams, Tatham & Co.*: *Capel Cure and Ball.*

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Railway and Canal Commission.

Re **West of England Road Metal Co. Ltd.**

MacKinnon, J., Sir Francis Taylor, Sir Francis Dunnell. 17th, 20th, 21st, 22nd, 23rd and 24th July, 1936.

MINES AND MINERALS—WORKING OF MINERALS UNDER LAND BY MEANS OF QUARRY—CONSEQUENT NECESSARY DESTRUCTION OF LAND BY LETTING DOWN OF SURFACE—APPLICATION TO PURCHASE—JURISDICTION OF RAILWAY AND CANAL COMMISSION — FORM OF ORDER — MINES (WORKING FACILITIES AND SUPPORT) ACT, 1923 (13 & 14 Geo. 5, c. 20), ss. 1, 3, 6, 9.

Application under the Mines (Working Facilities and Support) Act, 1923.

The applicant company owned a quarry on the coast in Cornwall, which they had been working for many years. By reason of their operations, the face of the quarry had been gradually advancing inland towards certain fields. The company made an offer to purchase the fields, but the persons

interested would not sell them for less than £6,750. The company accordingly made the present application, particulars of which appear in the judgment of MacKinnon, J.

MacKinnon, J., said that the matter which had given him the greatest difficulty was this: the Act was one under which an applicant might apply for, and be granted, the right to work minerals. The present applicants had asked for an order granting them the land with all necessary mining rights. In the case of a quarry, where it was desired not merely to win the minerals by extracting those which lay under the surface, but, in the nature of things, also to dig the surface off and throw it away (because it was no use from a quarry point of view), a right to work minerals became, in effect, almost equivalent to ownership in fee simple of the land—for it was a right to destroy the land and dig down to the lowest possible depth. The applicants asked for an order "granting and vesting in them the land" in question. In his (his lordship's) opinion, the court had no jurisdiction to grant the land to, and vest it in, them. It had only jurisdiction to grant a right to work the minerals. He (his lordship) had accordingly thought it proper to allow the applicants to amend their application by asking for a right to work the minerals, together with a right to occupy, let down, and remove the surface thereof. The difficulty with regard to the form of the application was, he thought, a mere formality. A further and formidable argument advanced on behalf of certain of the respondents interested in the land was that, under s. 4 of the Act of 1923, the right to work the minerals could only be obtained by a person who showed that he had applied to the owner for that right and attempted to secure it by offering a reasonable sum which had been unreasonably refused. It was said that the company never did apply for a right to work the minerals, but that all they had done was to offer to buy the land, and that, as the company were not in a position to show that they had ever asked for a right to work the minerals, they could not, as required by s. 4, establish that the right had been refused. He (his lordship) had already dealt with that incidentally by saying that, in his opinion, whatever the language used, what had originally been asked of the person concerned was, in substance, a right to quarry the land. There remained the question of compensation under s. 9. The company had offered £500 more for the land than had been given for it. He (his lordship) was content to take that as being the price which a willing buyer would give and the reasonable price which a willing seller would have accepted, and accordingly he held that £2,650 was the compensation to be paid. In the result, he held that there should be an order that the applicant company be granted the right to work the granite in or under the fields in question, with the ancillary right to occupy, let down and remove the surface thereon in the reasonable development of their quarries, and the ancillary right to carry on their business of quarrying in the fields without being liable to any claim by the owners for nuisance by noise, falling stones, or otherwise. Incidentally, as the court could only grant the right to work the minerals, the fee simple of the land was left in the persons interested in the fields, and they were at liberty to derive what profit they could out of them, until the quarry in its normal working had been advanced so as to encroach on the fields.

Counsel: *E. Terrell*, for the applicants; *Miller*, K.C., and *G. J. Paull*, for four of the respondents; *A. Capewell*, for the two other respondents.

Solicitors: *Robbins, Olivey & Lake*, agents for *Nalder and Son*, Truro; *Bennison, Garrett & Co.*, and *Lawson, Elliott & Lawson*; *Shaen, Roscoe, Massey & Co.*, agents for *Foot, Bowden & Blight*, Callington.

[Reported by R. C. Calburn, Esq., Barrister-at-Law.]

[For Table of Cases previously reported in current volume see page iii of Advertisements.]

Reviews.

The Rent and Mortgage Interest Restrictions Acts, 1920 to 1935. By Archibald Safford, of the Middle Temple, barrister-at-law. Eighth Edition 1936. Demy 8vo., pp. xxxii and (with Index) 275. London: Sweet & Maxwell, Ltd. 8s. net.

Practitioners are now familiar with this excellent work, which contains all the Acts, Rules and Regulations and decisions on the subject in a form which makes reference a pleasure. The enormous number of decisions (over 500) together with the six Acts and numerous regulations in force do not make for easy reference and those who are engaged daily in unravelling the rent troubles of the classes affected by this legislation will be grateful to the learned author for his skilful treatment of a complicated subject-matter. The book includes the text of all the Acts on the subject, whether in force or not, up to the Increase of Rent and Mortgage Interest (Restrictions) Act, 1935, and all decisions up to November, 1935, such as *Stokes* v. *Little* [1935] 1 K.B. 182, and *Pearman* v. *Dyer* [1935] 2 K.B. 149 (on the effect of registration of a dwelling-house under s. 2 (2) of the 1933 Act); *Wheeler* v. *Wirral Estates* [1935] 1 K.B. 294 (on the ascertainment of the "standard rent") and *Phillips* v. *Copping* [1935] 1 K.B. 15 (on the landlord's right to increase the rent to an amount equal to the standard rent plus the permitted increases (overruling *Dufty* v. *Palmer* [1924] 2 K.B, 35)). The popularity of this work is undoubtedly well deserved.

Books Received.

Complete Practical Income Tax. By A. G. McBain, Chartered Accountant. Eighth Edition, 1936. Demy 8vo. pp. xxiv and 316. London: Gee & Co. (Publishers), Ltd. 7s. 6d. net.

Motor Trade Law Simplified. By A. C. Crane, Solicitor. 1936. Crown 8vo. pp. (with Index) 181. London: The Institute of the Motor Trade (Inc.). Price 5s.

Tax Saving Deeds and the Finance Act, 1936. By T. J. Sophian, of the Inner Temple and the South Eastern Circuit, Barrister-at-Law. 1936. Crown 8vo. pp. ix and (with Index) 68. London: Sir Isaac Pitman & Sons, Ltd. 3s. 6d. net.

The Zinoviev Trial. By D. N. Pritt, K.C., M.P. 1936. Crown 8vo. pp. 39. London: Victor Gollancz, Ltd. 3d. net.

The Companies' Diary and Agenda Book, 1937. Edited by Herbert W. Jordan, Company Registration Agent. Foolscap folio. London: Jordan & Sons, Ltd. 4s. net.

Rules and Orders.

The Rules of the Supreme Court (No. 4), 1936. Dated July 31, 1936.

We, the Rule Committee of the Supreme Court, hereby make the following Rules:—

1. In Order LV the following Rule shall be inserted after Rule 8 and shall stand as Rule 8A:—

"8A. Orders for payment and for possession made under Rule 5A of this Order shall be in the Forms set out in Appendix L to these Rules, Nos. 38, 39, and 40, with such variations as the circumstances of the case may require, and the like Forms shall mutatis mutandis be used under corresponding circumstances in actions for the like relief commenced by writ."

2. The following Forms shall be inserted in Appendix L after Form No. 37 and shall stand as Forms 38, 39 and 40:—

"38

Order for payment of Principal Money or Interest secured by Mortgage or Charge (Order 55 Rule 8A).

It is ordered that the plaintiff do recover against the defendant £ secured by a mortgage (or charge) dated the day of 19 (being the total of the principal sum of £ and £ for interest

thereon at £ per cent. per annum less tax to the day of (date of order) and £ for costs (*or* his costs of this summons to be taxed) (*Add where the defendant is a married woman* but such sum and costs shall not be payable out of any property of the defendant to the enjoyment of which is attached any enforceable restriction against anticipation).

And it is ordered that upon the defendant paying to the plaintiff the moneys ordered to be recovered and all other moneys (if any) secured to the plaintiff by the said mortgage (or charge) the plaintiff (subject and without prejudice to the due exercise of any power of sale for the time being vested in him) do release to the defendant the security constituted by the said mortgage (or charge).

And it is ordered that all parties be at liberty to apply to the Court as they may be advised.

39

ORDER FOR POSSESSION OF PROPERTY FORMING A SECURITY FOR PAYMENT TO THE PLAINTIFF OF ANY PRINCIPAL MONEY OR INTEREST (ORDER 55 RULE 8A).

It is ordered that the defendant do give the plaintiff possession on or before the day of 19 of the land hereinafter described and comprised in a mortgage (*or* charge) dated the day of 19 that is to say

(*here describe the property*)

And it is ordered that the plaintiff do recover against the defendant the sum of £ for costs (*or* his costs of this summons to be taxed) (*Add where the defendant is a married woman* but such sum and costs shall not be payable out of any property of the defendant to the enjoyment of which is attached any enforceable restriction against anticipation)

And it is ordered that upon the defendant paying to the plaintiff the moneys remaining due to the plaintiff upon the security of the said mortgage (or charge) the plaintiff (subject and without prejudice to the due exercise of any power of sale for the time being vested in him) do re-deliver to the defendant possession of the property subject to the said mortgage (or charge) and release to the defendant the security constituted by the said mortgage (or charge).

And it is ordered that all parties be at liberty to apply to the Court as they may be advised.

40

ORDER FOR PAYMENT OF PRINCIPAL MONEY OR INTEREST SECURED BY MORTGAGE OR CHARGE AND FOR POSSESSION OF PROPERTY COMPRISED THEREIN (ORDER 55 RULE 8A).

It is ordered that the plaintiff do recover against the defendant £ secured by a mortgage (or charge) dated the day of 19 (being the total of the principal sum of £ and £ for interest thereon at £ per cent. per annum less tax to the day of (date of order) and £ for costs (*or* his costs of this summons to be taxed) (*Add where the defendant is a married woman* but such sum and costs shall not be payable out of any property of the defendant to the enjoyment of which is attached any enforceable restriction against anticipation)

And it is ordered that the defendant do give the plaintiff possession on or before the day of 19 of the land hereinafter described and comprised in the said mortgage (*or* charge) that is to say—

(*here describe the property*)

And it is ordered that upon the defendant paying to the plaintiff the moneys hereby ordered to be recovered and all other moneys (if any) secured to the plaintiff by the said mortgage (or charge) the plaintiff (subject and without prejudice to the due exercise of any power of sale for the time being vested in him) do redeliver to the defendant possession of the property subject to the said mortgage (or charge) and release to the defendant the security constituted by the said mortgage (or charge)

And it is ordered that all parties be at liberty to apply to the Court as they may be advised."

3. These Rules may be cited as the Rules of the Supreme Court (No. 4), 1936, and shall come into operation on the 12th day of October, 1936, and the Rules of the Supreme Court, 1883, shall have effect as amended by these Rules.

Dated the 31st day of July, 1936.

Hailsham, C.	*A. C. Clauson*, J.
Hewart, C.J.	*C. J. W. Farwell*, J.
Wright, M.R.	*A. W. Cockburn.*
F. B. Merriman, P.	*C. H. Morton.*
Rigby Swift, J.	*Roger Gregory.*
Finlay, J.	

THE HOUSING ACT, 1935 (OPERATION OF OVERCROWDING PROVISIONS) ORDER (No. 3), 1936, DATED SEPTEMBER 25, 1936, MADE BY THE MINISTER OF HEALTH UNDER THE HOUSING ACT, 1935 (25 & 26 GEO. 5. c. 40). [S.R. & O., 1936. No. 1017. Price 1d. net.]

Court Papers.

Supreme Court of Judicature.

Date.		Emergency Rota.	Appeal Court No. I.	Group I. Mr. Justice Eve. Witness. Part II.	Mr. Justice Bennett. Non-Witness
		Mr.	Mr.	Mr.	Mr.
Oct.	12	Ritchie	Hicks Beach	*Ritchie	More
,,	13	Blaker	Andrews	Andrews	Ritchie
,,	14	More	Jones	*More	Andrews
,,	15	Hicks Beach	Ritchie	*Hicks Beach	Jones
,,	16	Andrews	Blaker	Blaker	Hicks Beach
,,	17	Jones	More	Jones	Blaker

		Group I. Mr. Justice Crossman. Witness. Part I.	Mr. Justice Clauson. Witness. Part I.	Group II. Mr. Justice Luxmoore. Non-Witness.	Mr. Justice Farwell. Witness. Part II.
		Mr.	Mr.	Mr.	Mr.
Oct.	12	*Andrews	*Blaker	Jones	Hicks Beach
,,	13	*More	*Jones	Hicks Beach	*Blaker
,,	14	*Ritchie	*Hicks Beach	Blaker	Jones
,,	15	Blaker	*Andrews	More	Ritchie
,,	16	*Jones	More	Ritchie	*Andrews
,,	17	Hicks Beach	Ritchie	Andrews	More

*The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

MICHAELMAS SITTINGS, 1936.

COURT OF APPEAL.

APPEAL COURT No. I.

Monday, 12th October.—Exparte Applications, Original Motions, Interlocutory Appeals from the Chancery and Probate and Divorce Divisions, and if necessary, Chancery Final Appeals. Chancery Final Appeals will be continued until further notice.

APPEAL COURT No. II.

Monday, 12th October.—Exparte Applications, Original Motions, Interlocutory Appeals from the King's Bench Division, and, if necessary, King's Bench Final Appeals. King's Bench Final Appeals will be continued until further notice.

HIGH COURT OF JUSTICE.

CHANCERY DIVISION.

GROUP I.

Before Mr. Justice EVE.

(The Witness List. Part II.)

Mr. Justice EVE will sit daily for the disposal of the List of longer Witness Actions.

Before Mr. Justice BENNETT.

(The Non-Witness List.)

Mondays .....Chamber Summonses.
Tuesdays .....Motions, Short Causes, Petitions, Procedure Summonses, Further Considerations and Adjourned Summonses
Wednesdays ..Adjourned Summonses.
Thursdays.... Adjourned Summonses. Lancashire Business will be taken on Thursdays, the 15th and 29th October, 12th and 26th November and 10th December.
Fridays ... . Motions and Adjourned Summonses.

Before Mr. Justice CROSSMAN.

(The Witness List. Part I.)

(*Actions, the trial of which cannot reasonably be expected to exceed* 10 *hours.*)

Mondays .....Companies (Winding up) Business.
Tuesdays / Wednesdays / Thursdays / Fridays — The Witness List. Part I.

GROUP II.

Before Mr. Justice CLAUSON.

(The Witness List. Part I.)

(*Actions, the trial of which cannot reasonably be expected to exceed* 10 *hours.*)

Mondays .....Bankruptcy Business.
Tuesdays / Wednesdays / Thursdays / Fridays — The Witness List. Part I.

Bankruptcy Judgment Summonses will be taken on Mondays, the 26th October, 16th November, and 7th December.

Bankruptcy Motions will be taken on Mondays, the 19th October, and 9th and 30th November.

A Divisional Court in Bankruptcy will sit on Mondays, the 2nd and 23rd November, and 14th December.

Before Mr. Justice LUXMOORE.

(The Non-Witness List.)

Mondays .....Chamber Summonses.
Tuesdays .....Motions, Short Causes, Petitions, Procedure Summonses, Further Considerations and Adjourned Summonses
Wednesdays ..Adjourned Summonses.
Thursdays ....Adjourned Summonses.
Fridays .....Motions and Adjourned Summonses.

Before Mr. Justice FARWELL.

(The Witness List. Part II.)

Mr. Justice FARWELL will sit daily for the disposal of the List of longer Witness Actions.

THE COURT OF APPEAL.

A List of Appeals for hearing, entered up to Monday, 28th September, 1936.

FROM THE CHANCERY DIVISION.

(Final List).

British Acoustic Films Ltd v Nettlefold Productions (a firm)
Same v same
Wood v Gowshall Ltd
Manbre and Garton Ltd v Albion Sugar Co Ltd
Same v Same
Clore v Theatrical Properties Ltd
Re Cohen's Will Trusts Cullen v Westminster Bank Ltd
Mackenzie v Darragh Smail & Co Ltd
Re Parent Trust and Finance Co Ltd Re Companies Act 1929 Appeal of R Kettle
Re Same Cross-appeal of Greer and Pullbrook

White v Ship Carbon Company of Great Britain Ltd
Re Patents and Designs Acts 1907–1932 Re Registered Design No. 784366 in Class 3 of Margolin
Re Odling's Will Trusts Odling v Churchman
Re Wimble's Will Trusts Wakeman v Chapman
Re Blake's Estate Berry v Geen
Corporation of Liverpool v Lancaster County Council
Re Mainwaring's Settlement's Trusts Mainwaring's Trustee in Bankruptcy v Verden
South County Freeholds Ltd v Knight
Société des Productions Cinematographiques Ajax-Films v British European Film Corporation Ltd
Re Read's Estate Hayne v Price
Re Hill's Deed John Carle Ltd v Hill
Radio Publicity (Universal) Ltd v Compagnie Luxembourgeoise de Radio-Diffusion and Wireless Publicity Ltd
Re Leighton's Conveyance Re Land Registration Act 1925
Re Webster's Estate Goss v Webster
Re Keen's Estate Evershed v Griffiths
Scott v Scott
Re Registered Trade Mark No. 546401 Re Trade Marks Acts 1905–1919
Andreæ v Selfridge & Co Ltd
Re Evans' Will Trusts Evans v Osmond
Middlesex County Valuation Committee v West Middlesex Assessment Area Committee
Holland v Administrator of German Property
Re Fenton's Will Trusts Public Trustee v Fenton
Munro v British Lion Film Corporation Ltd
Hayes Bridge Estate Ltd v Portman Building Society
Nelson v Rayner
Pocklington v Lowe
Ford v Deutsch

(In Bankruptcy.)

Re Jackson, H F Exparte the Debtor v The Official Receiver
Re Andrew, J Exparte the Official Receiver (Trustee) v Standard Range & Foundry Co Ltd
Re a Debtor (No 179 of 1936) Exparte the Debtor v the Petitioning Creditor and the Official Receiver
Re a Debtor (No 231 of 1936) Exparte the Debtor v the Petitioning Creditor and the Official Receiver
In re a Debtor (No 536 of 1936) Exparte the Debtor v the Petitioning Creditor and the Official Receiver

FROM THE CHANCERY AND PROBATE AND DIVORCE DIVISION.

(Interlocutory List.)

Divorce Simon v Simon
Parfumerie J Lesquendieu Société Anonyme v J Lesquendieu Ltd
George Legge & Sons Ltd v Wenlock Borough Council
Burgess v Rawle
Divorce Bryant v Bryant

FROM THE COUNTY PALATINE COURT OF LANCASTER.

(Final List.)

Executors of John Hargreaves Ltd v Burnley Borough Council
Same v Same
Re Blair's Estate Public Trustee v Attorney-General of Duchy of Lancaster
Pearlberg v The Palm Mill Co Ltd (in liquidation)

FROM THE PROBATE AND DIVORCE DIVISION.

(Final List.)

Divorce Holt v Holt
Divorce Warhurst v Warhurst
Divorce Thomas v Thomas

FROM THE KING'S BENCH DIVISION.

(Final and New Trial List.)

For Judgment.

International Trustee for the Protection of Bondholders Aktiengesellschaft v The King
Ledwith v Roberts
Symes v Essex Rivers Catchment Board

For Hearing.

Davies v Russell (s.o. for House of Lords)
Singer v Associated Newspapers Ltd
Clubb v George Wimpey & Co Ltd
Collingwood v Home and Colonial Stores Ltd
Swain v West (Butchers) Ltd
Schwartz v Bourne & Hollingsworth Ltd
The British and French Trust Corpn Ltd v The New Brunswick Railway Co (s.o. for judgment in International Trustee for the Protection of Bondholders Aktiengesellschaft v The King)
Shaw v Bennett (trading as "Boris")
Brooks Wharf and Bull Wharf Ltd v Goodman Bros
Salt v The Power Plant Co Ltd
Bloor v Liverpool Derricking and Carrying Co Ltd
Felston Tile Co Ltd v Winget Ltd
Paterson v Van der Elst
The Commissioners for executing the Office of Lord High Admiral of the United Kingdom v The Owners of the Motor Vessel "Valverda," her Cargo and Freight
Chase v Silver End Development Co Ltd
Hill v Tar Distillers Ltd
Cooper v Wilson
Barnard v Clayden
Thomson v Louis Dreyfus & Co
Pincott v Moorstons Ltd
Williams v Trevor
Verne v H Willis & Sons Ltd
Barber v Pigden
Hopkins v Bell Brothers (Manchester 1927) Ltd
Bretherick v Paget
Ivory (an Infant) v H G Brown & Son
Stephenson v Williams
De Sola v World Fireproof Warehouses Inc
Heaps (an Infant) v Perrite Ltd
W Turner Lord & Co v Hutchinson
Farmer v Hyde
Rosenbaum v Rosenbaum
Latter v Colwill
Robinson Brothers (Brewers) Ltd v Assessment Committee for No 7 or Houghton and Chester-le-Street Assessment Area in the County of Durham
Walker v Kenns Ltd
Fryer v Salford Corporation
Blaustein v Maltz Mitchell & Co
Irwin v Dunnett
Taylor v Webb
Alexander v Rayson
Lineham v Tester
Stent v Kerslake
Warmingtons v McMurray
Drake v Allen
Re Arbitration Act 1889 Naamlooze Vennootschap Handels En Transport Maatschappy "Vulcan" v A/S Ludwig Mowinckels Rederi
Bodey Jerrim & Denning Ltd v Pentiron Steamship Co Ltd
Brown v New Empress Saloons Ltd
White v Potter
Diamantidi v Grosvenor Securities Ltd
Stock v Stansfield
Millensted v Grosvenor House (Park Lane) Ltd
Same v Same
Howard v Odhams Press Ltd
Same v Same
McElroy v Grieve
Silcock & Sons Ltd v Maritime Lighterage Co (J R Francis & Co) Ltd
Hall v Harries and Edmonds (a firm)
Berg v Sadler and Moore (a firm)
Kornis v Beauchamp
Same v Same
The King v Assessment Committee for the City of Salford Exparte Ogden
Aschkenasy v Silverstone
Mallory Gravel Co Ltd v Frederick Parker Ltd
Burrows v Hackney Borough Council
Liverpool Corn Trade Association Ltd v Hurst Lessing and ors Third Parties
Four Way Ties Ltd v Topel & Wyler Ltd
Dale v Chambers
Mizen (an Infant) v South London Excavating Co (a firm)
Lawrence v Terence Byron Ltd
McKay v Salomon
Re Arbitration Acts 1889 and 1934 Rederiaktiebolaget "Unda" v W W Burdon & Co Ltd
Screech v Woodhams
Dean v Fox
Perkins (an Infant) v Mears Bros Ltd
Gibson v Roberts
Westminster Bank Ltd v Imperial Airways Ltd
McManus v Bowes
Appenrodt v Central Middlesex Assessment Committee
Jones v London & North Eastern Railway Company
Thomas v Cadell
Seric v Bankier
Murray (an Infant) v Schwachman Ltd
Standing Joint Committee for the County of Montgomery v Davies
Beresford v Royal Insurance Co Ltd
Same v Same
Fearon v Owen Horton third party
Home Trades Conversion Syndicate Ltd v Smith
Same v James Flower & Son
Same v Same
Ratcliff (an Infant) v London Midland and Scottish Railway Co
Bushby v Pattinson
Tipping v The Liverpool Gas Company
Carlyon Estate Ltd v Wells
Lowick v Lazarus
Vesta Societa Anonima v Hambros Bank Ltd
Same v Same
Fowler v W Dyson & Son (a firm)
Freedman v John Ismay & Sons Ltd
Byrne v Deane
Seers v Sanderson
The Great Western Railway Company v The Chamber of Shipping of the United Kingdom
Jones v Filtrators Ltd
Henaghan v Rederiet Forangirene (The Owners of the s.s. "Irene")
Birkhead v Lodge
Tolnay v Criterion Film Productions Ltd
Richardson v Robert-Jones
Hodson v Seager
Doughty (an Infant) v County Council of the Parts of Lindsey
United Dairies (Wholesale) Ltd v Lemon
Woodman v Faraday Michael Faraday and Partners Ltd third party
Langham Investments Ltd v Lawrence

(Interlocutory List.)

Re Arbitration Act 1889 Fried Krupp Aktiengesellschaft v Orconera Iron Ore Co Ltd
Chandler Brothers Ltd v Boswell
Gagan v Awty
O'Brien v Totalisators Ltd
Marylebone Studios Ltd v Ace Films Ltd
Clinch v Stanford
Marchant v Ford
Snowball v Cleveland Petroleum Products Co Ltd
Corley v Chartered Bank of India and China
Same v Same
Hulme v Odhams Press Ltd
Fielding v Levy
Bencol Ltd v McLeod
Bloom v Cohen

(Revenue Paper—Final List.)

National Mortgage and Agency Co of New Zealand v Commissioners of Inland Revenue
Commissioners of Inland Revenue v National Mortgage and Agency Co of New Zealand
Bower v Commissioners of Inland Revenue
Commissioners of Inland Revenue v New Sharlston Collieries Co Ltd
His Majesty's Attorney-General v Cohen
Hughes (H.M. Inspector of Taxes) v The Bank of New Zealand
The Commissioners of Inland Revenue v Lawrence Graham & Co
Bishop (H.M. Inspector of Taxes) v Belfield
Shrewsbury v Commissioners of Inland Revenue
Trinidad Petroleum Development Co Ltd v The Commissioners of Inland Revenue
Wilson Box (Foreign Rights) Ltd (in liquidation) v Brice (H.M. Inspector of Taxes)
Lyons v Collins (H.M. Inspector of Taxes)

Reed v Cattermole (H.M. Inspector of Taxes)
Commissioners of Inland Revenue v Pearson
Commissioners of Inland Revenue v Pratt
Rhokana Corporation Ltd v Commissioners of Inland Revenue

FROM COUNTY COURTS.

Oxford Camera & Trading Co Ltd v Riege
Williams v Williams
Stammers v London Midland and Scottish Railway Company
Mills v Mills
Conway v New Ideal Homesteads Ltd
Keith Wright Ltd v Challis
Marshall (an Infant) v London Passenger Transport Board
Espir v Basil Street Hotel Ltd
Castle Concrete Co Ltd v Cordwell
Clifford v Robinson
Holtkamp v United Service Transport Co Ltd
Prior v Mayes
Public Trustee v Ward
Jacksons (Westcliff) Ltd v Hinton
Feltham Urban District Council v New Ideal Homesteads Ltd
Kearns v Gee Walker & Slater Ltd
Foden v Tibbs
Svoronos v Hardy
Wills & Packham Ltd v Clinch
C Christopher (Hove) Ltd v Williams
Smith v Kinsey
A Singleton & Son v Davies
Reed v Coleman
B P Pictures Ltd (trading as British Publicity Pictures) v Daniels
Gugenheimer v Hampstead Borough Council
Holt v Catley
French v Newbury
Kirk v Eustace
Holt's Trustee in Bankruptcy v Catley
Mankellow v King
Lipman v Kravitz
Frances v Pasha
Wray v Essex County Council
Brentford & Chiswick Borough Council v Bryant
Cooper v Higgs
Aston v Firbeck Main Collieries Ltd
Oxby v Same
Jones v Bale
Coppins v Levy
Morgan v Ashcroft
Dott v Travers
Talley v Southern Railway Company
Sharman v Harries
Byrne v Western Trinidad Lake Asphalt Co Ltd
Treadgold (trading as Williamson & Treadgold) v Rosevear

(Re The Workmen's Compensation Acts.)

London Power Co Ltd v Lamb
Jones v Jeffries and Grant Ltd
Blee v London and North Eastern Railway
Gwilym v Aberbeeg Collieries Ltd
Hill v Ladyshore Coal Company (1930) Ltd
Havard v Amalgamated Anthracite Collieries Ltd
United Dairies (London) Ltd v Sterling
Homer v Donisthorpe Colliery Co Ltd
Edwards v The Ruabon Coal & Coke Company
Harding v H & E Waters Ltd
Hilton v Bullington & Newton Ltd
Shaw v Wallsend & Hebburn Coal Company Ltd

FROM THE ADMIRALTY DIVISION.

(Final List.)

(With Nautical Assessors.)

"Rockabill" Liverpool District Registry K. No. 2323 The Owners of s.s. "King Orry" v The Owners of s.s. or vessel "Rockabill"
Re Same Same v Same

Original Motions.

Divorce Greenwood v Greenwood
Jones v Jeffries & Grant Ltd
Purton v Gill
Wainwright v John Barker & Co Ltd

Standing in the "Abated" List.

FROM THE CHANCERY DIVISION.

(Interlocutory List.)

Fishenden v Higgs and Hill Ltd (s.o. generally Jan 20, 1936)

FROM COUNTY COURTS.

Myers v Moss (s.o. generally Oct 10, 1935)

HIGH COURT OF JUSTICE—CHANCERY DIVISION.

There are Three Lists of Chancery Causes and matters for hearing in Court. (I) Adjourned Summonses and Non-Witness actions; (II) Witness Actions Part I (*the trial of which cannot reasonably be expected to exceed* 10 *hours*) and (III) Witness Actions Part II; every proceeding being entered in these lists without distinction as to the Judge to whom the proceeding is assigned. During the Sittings there will usually be two Judges taking each of these lists and warning will be given of proceedings next to be heard before each Judge. Applications in regard to a "warned" matter should be made to the Judge before whom it is "warned."

Applications in regard to a proceeding which has not been "warned," should usually be made to the senior of the two Judges taking the list in which the proceeding stands.

Motions, Short Causes, Petitions and Further Considerations will be taken by that one of the Judges taking the Non-Witness List who belongs to the group to which the proceeding is assigned.

GROUP I.—Mr. Justice EVE, Mr. Justice BENNETT and Mr. Justice CROSSMAN.

GROUP II.—Mr. Justice CLAUSON, Mr. Justice LUXMOORE and Mr. Justice FARWELL.

The Adjourned Summons and Non-Witness List will be taken by Mr. Justice LUXMOORE and Mr. Justice BENNETT.

The Witness List Part I will be taken by Mr. Justice CLAUSON and Mr. Justice CROSSMAN.

The Witness List Part II will be taken by Mr. Justice EVE and Mr. Justice FARWELL.

Motions, Short Causes, Petitions and Further Considerations in matters assigned to Judges in Group I will be heard by Mr. Justice BENNETT.

Motions, Short Causes, Petitions and Further Considerations in matters assigned to Judges in Group II will be heard by Mr. Justice LUXMOORE.

Companies (Winding up), Liverpool and Manchester District Registries and Bankruptcy business will be taken as announced in the Michaelmas Sittings Paper.

Set down 28th September, 1936.

Mr. Justice EVE and Mr. Justice FARWELL.

Witness List Part II.

Before Mr. Justice EVE.

For Judgment.

Newport v Pougher (restored)

For Hearing.

Retained Matters.

Witness List Part II.

Draper v Trist (restored) (to be mentioned)

Witness List Part I.

Eclipse Glass Works Ltd v Stein
Froude v Anstee

Before Mr. Justice FARWELL.

Retained Matters.

Non-Witness List.

Re Conyngham's Will Trusts Conyngham v Cameron (fixed for Oct 30)
Re Conyngham Gretton v Conyngham (fixed for Oct 30)

Mr. Justice EVE and Mr. Justice FARWELL.

Witness List Part II.

Smith v Martley Rural District Council
Martley Rural District Council v Kington
Madlener v Herbert Wagg & Co Ltd (s.o. for security)
Fox v Duboff (s.o. for amendment)
H Piggott & Sons Ltd v The British Brick & Tile Corpn Ltd (not before Nov 2)
Re Rose Rose v Rose
British Celanese Ltd v Cellulose Acetate Silk Co Ltd (s.o. for Appeal)
Trustee of the Property of Thomas Richard Bulleid, a Bankrupt v Bach
Radium Utilities Ltd v Humphris (s.o. for security)
Wells v Wells
Sturtevant Engineering Co Ltd v Sturtevant Mill Co of U S A Ltd
British Thomson Houston Co Ltd v Guildford Radio Stores
Ritzerfeld v Frank R Ford Ltd (s.o. for security)
Molins v Industrial Machinery Co Ltd
William Hollins & Co Ltd v Cotella Ltd
Re Trade Marks Acts 1905 to 1919 Re Haslams Trade Mark No 553414 (by order)
Re Sheldon's Trusts West v Sheldon
Maturin v North
Hoover Ltd v Air-Way Ltd
Curtis v Beldam
Schloemann Aktiengesellschaft v Ruchholtz
Re Holt Lyon-Clark v Holt
Wheeler v Public Trustee
Re Smith Bones & Co Ltd Re Companies Act 1929
Re Spear's Will Trusts Mount v Reynolds
Ferndale Estates Ltd v Claridge
W Gradwell & Co Ltd v Hayes Bridge Estate Ltd
Dean Finance Co Ltd v Ever Ready Company (Gt Britain) Ltd
Poznanski v London Film Productions Ltd (restored)
Marsh v Denniss (restored)
Howaldt Ltd v Condrup Ltd
Re Powell Parry v Wilson
Crane v Beasley
Lex Garages Ltd v Moon's Garages Ltd
Von Taysen v Magniac Williamson & Co
Milner v John Waddington Ltd (restored)
British Thomson-Houston Co Ltd v Crompton Parkinson Ltd
Knowles v Wood
Mumford v Beaconsfield U D C
Ellenby Estates Ltd v Pollard
North Level Commissioners v River Welland Catchment Board
Edwards v De Havilland Aircraft Co Ltd
Gardiner v Walsh
Bruton Club Ltd v Club Holdings Ltd
Bigelow v Bilton
Thomas v Lewis
Briggs v Parsloe
Noterman v Shepherd's Bush Exhibition Ltd
Greee v Pringle
Re Associated Manufacturers (Gowns and Mantles) Ltd Re Companies Act 1929
Callow v Callow
London Midland and Scottish Railway Co v Moira Colliery Co Ltd
Birkenhead v Haclin
Scottish Express Deliveries Ltd v Road Finance Co Ltd
Stephens v Poole Borough Council
Gaffee Wholesale Ltd v Briggs
Wilson v Simpson Engineering Company (a firm)
Parfumerie J Lesquendieu Société Anonyme v J Lesquendieu Ltd
Re Trade Mark No 469424 regd in name of J Lesquendieu Ltd Re Trade Marks Acts 1905-1919
Coppins v Standard Bottle Co Ltd
Lawton v Wield
Hammett v Atlas
Weathershields Ltd v Metropolitan Sliding Roof Co (a firm)
Hurt v Bowmer
Abbott v Abbott
Re Haywoods Will Trusts Peat v West
Johnston v Johnston
Rickard v Monmouth County Council
Black v Black
Wilcox v Kettell

Mr. Justice CLAUSON and Mr. Justice CROSSMAN.

Witness List Part I.

Actions, the trial of which cannot reasonably be expected to exceed 10 *hours.*

Before Mr. Justice CLAUSON.

Retained Matter.

Re Jenings Thomson v Jenings (s.o. to 20th Oct)

Before Mr. Justice CROSSMAN.

Retained Matters.

Witness List Part II.

George Legge & Son Ltd v Mayor, Aldermen and Burgesses of the Borough of Wenlock (pt hd)

Witness List Part I.

Smith v Mortimer

Companies Court.

Petitions.

Britivox Ltd (to wind up—ordered on Nov 16, 1931, to s.o. until action disposed of—liberty to restore)
Mitcham Creameries Ltd (same—ordered on Oct 15, 1934, to s.o.g. —liberty to apply to restore after action disposed of)
Sun-Ray Studios Ltd (same—ordered on July 15, 1935, to s.o.g.)
British and Dominions Investment Trust Ltd (same)
J & G Moseley Brothers Ltd (same)
Lianne Ware Ltd (same)
Vincent Property and Investment Co Ltd (same)
Thoroughgood Ltd (same)
Allundies Ltd (same)
John Hadwen & Sons Ltd (same)
Barnums Ltd (same)
Sunbred Ltd (same)
Knit & Reed Ltd (same)
Maddox Wine Co Ltd (same)
N Donner Ltd (same)
New Callao Gold Mining Co Ltd (same)
H Gordon (London) Ltd (same)
Macdonalds South Coast Hairdressing Saloons Ltd (same)
Aircraft & Autos Ltd (same)
W H Newton Ltd (same)
Highfield Estates (Ravensbourne Park) Ltd (same)
Fairby Construction Co Ltd (same)
Beauport Park Ltd (same)
Embee Ltd (same)
Merson Bruce Ltd (same)
M Fisher & Co Ltd (same)
Heath (Contractors) Ltd (same)
Walmsley & Co (Chorley) Ltd (same)
J Ozholl Ltd (same)
Kingsway Cinema (Hadleigh) Ltd (same)
Estates Development and Realization Ltd (same)
Coloured Cotton Spinning Co Ltd (same)
Milbank & Hoare Ltd (same)
Simpson & Burt Ltd (same)
Silrose Ltd (same)
Middleton (Leeds) Recreation Club & Institute (same)
British Artistic Films Ltd (same)
Bucks Domestic Equipment Co Ltd (same)
C Tinkler Ltd (same)
Blackfriars Boxing Syndicate Ltd (same)
Champion-Card Ltd (same)
Milbank & Hoare Ltd (same)
Bessborough Motors Ltd (same)
Ebe Ltd (same)
G M Edwards and Company (Caterers) Ltd (same)
Jennie Lazarus Ltd (same)
West End & Central Properties Ltd (same)
Henry's Advertising Service Co Ltd (same)
R Simons (London) Ltd (same)
Terry's (Hounslow) Ltd (same)
Agar-Stevens Estates Ltd (same)
Paul Ruinart (England) Ltd (to confirm reduction of capital)
British Woollen Cloth Manufacturing Co Ltd (to confirm reduction of capital—ordered on Dec 8, 1930, to s.o.g.—liberty to restore)
Charles Brown & Co Ltd (to confirm reduction of capital)
English Motor Agencies Ltd (to confirm reduction of capital—ordered on April 1, 1935, to s.o.g.—liberty to apply to restore)
H H Warner and Co Ltd (to confirm reduction of capital)
Wm Silvester & Sons Ltd (same)
Moscow Narodny Bank Ltd (same)
C Greenwood & Co (Huddersfield) Ltd (same)
Pinner & Willis Ltd (same)
John Wood and Sons Ltd (same)
L Hecht & Co Ltd (same)
Graphite Oils Co Ltd (same)
Cuddeford Brothers & Co Ltd (same)
Barton Pure Ice and Cold Storage Co Ltd (same)
Linley Engineering Co Ltd (same)
Holland & Webb Ltd (same)
Thomas Broad Ltd (same)
Robinson Bros Cork Growers Ltd (same)
Dodwell and Co Ltd (same)
Glen Line Ltd (same)
London Home Counties and South Coast Land Co Ltd (same)
Uganda Co Ltd (same)
William Ramsden & Co Ltd (same)
W H & F J Horniman & Co Ltd (same)
Kepitigalla Rubber Estates Ltd (same)
Charles W Taylor & Sons Ltd (same)
Ashton & Mitchell Ltd (same)
Willoughby (Plymouth) Ltd (same)
Berkeley Property and Investment Company Ltd (same)
Gresham Street Warehouse Co Ltd (to confirm alteration of objects)
Society of Certificated Teachers of Pitmans Shorthand and other Commercial Subjects Ltd (same)
Union-Castle Mail Steamship Company Ltd (same)
Doricotts Ltd (to sanction scheme of arrangement)
Middlesex Banking Co. Ltd (same)
Colchester Brewing Co Ltd (s. 155)
Queen's Club Garden Estates Ltd (s. 155)
Western Mansions Ltd (s. 155)
British Italian Banking Corporation Ltd (s. 155)
Huddersfield Fine Worsteds Ltd (to sanction scheme of arrangement and confirm reduction of capital)

Motions.

Trent Mining Co Ltd (ordered on July 31, 1931, to s.o. generally—liberty to apply to restore)
Kings Cross Land Co Ltd (ordered on June 26, 1934, to s.o. generally—liberty to apply to restore)
Flactophone Wireless Ltd (ordered on July 10, 1934, to s.o. generally)
Sunshine Remedies Ltd (ordered on July 29, 1935, to s.o. generally)
Brittains Motors Ltd (ordered on July 8, 1935, to s.o. generally—liberty to apply to restore)
Eastcheap Alimentary Products Ltd

Adjourned Summonses.

Marina Theatre Ltd (Application of F H Cooper—with witnesses—ordered on May 10, 1933, to s.o. generally—liberty to apply to restore)
W Smith (Antiques) Ltd (Application of Liquidator—with witnesses—ordered on Dec 8, 1932, to s.o. generally)
Essex Radio Supplies Ltd (Application of Official Receiver and Liquidator—with witnesses—ordered on Oct 31, 1934, to s.o. generally)
Pictos Ltd (Application of Liquidators—with witnesses—ordered on March 29, 1935, to s.o. generally—liberty to apply to restore)
Finsbury and South Place Securities Co Ltd (Application of C Allerton—with witnesses)
Imperial Ottoman Docks Arsenals and Naval Constructions Co (Application of R Hirzel)
Scophony Ltd (Application of R T D Stoneham)
Synchrophone Ltd (Application of North Metropolitan Electric Power Supply Co Ltd)
Gill & Reigate Ltd (Application of Legal Personal Representatives of Josephine Laurence Butler, dec and of Butler Estates Ltd)
Synchrophone Ltd (Application of Richard Taylor)
B Borst Ltd (Application of Borst Bros Ltd and Theodore Borst)
R Gertzenstein Ltd (Application of Joint Liquidators)
Dobrin Ltd (Application of Rose Oppenheimer)

Chamber Symmons.

Martini (Gowns) Ltd

Mr. Justice CLAUSON and Mr. Justice CROSSMAN.

Witness List. Part I.

Merritt v Merritt and Thatcher Ltd (s.o. for King's Bench action)
Harry Emmott Ltd v Bell
Hollington v Condy
Chabot v Davies
Laird v Ellis
Brown v Gower
Underwood v Underwood
Hill v Freeland and Passey (a firm)
Stafford v Firth
Re Senior Senior v Senior
Hughes v Pattison
Sutherland Publishing Co Ltd v Caxton Publishing Co Ltd
Re Bramhall Tudor Cinema Properties Ltd Greenhalgh v Clayton
Woodhams v Screech
Holland v Vivian Van Damm Productions Ltd
Brewis v Arnold
Pathe Pictures Ltd v Sheridan
Meaker v Barnsley
Quinton Estates Ltd v Joce
Re Application (Rectification) No 483 by Société des Usines Chimiques Rhone-Poulenc Re Trade Marks Acts 1905 to 1919
Edwards v Parnes
Bonner v Salomon
Jervis v Howle
Berry v Tottenham Hotspur Football and Athletic Co Ltd
Courtman's Trustee in Bankruptcy v Courtman
Clayton v Greenhalgh
Cupal Ltd v Chapman
Collings v Charles Bradbury Ltd
Coliseum (Ilford) Ltd v Findlay
Drughorn v Newman
Re Warr Warr v Taylor
Philip Elliott Ltd v Beebe
Sneiman v Sneiman
Crabb's Trustee in Bankruptcy v Carter
Haywood v Aron
Muzzelle v Muzzelle
Johnston v Johnston
Raven v Shackley
Thomas v W T Davies & Sons Ltd
Moss v Rush

Mr. Justice LUXMOORE and Mr. Justice BENNETT.

Adjourned Summonses and Non-Witness List.

Before Mr. Justice LUXMOORE.

Assigned Petitions.

Re Henderson's Letters Patent No 159604 Re Patents and Desig s Acts 1907–32
Re Johnson & Johnson (Great Britain) Ltd's Letters Patent No 387125 Re Patents and Designs Acts 1907–32
Re Evan's Letters Patent No 149233 Re Patents and Designs Acts 1907–32

Procedure to Summons.

Shell Mex and B P Ltd v Holmes

Before Mr. Justice BENNETT.

Procedure Summons.

Aktiebolaget Siefvert & Fornander v Rosen

Mr. Justice LUXMOORE and Mr. Justice BENNETT.

Adjourned Summonses and Non-Witness List.

Re Steinkopff Schilling v Dr Barnardo's Homes National Incorporated Assn
Re Blackwell's Will Trusts Hay v Pulham
Atomisers Ltd v Burnet
Re McNeil's Will Trusts Cunningham v McNeil
Re Yate's Will Trusts Walker v Yates
Re Hearn's Will Trusts Hearn v Satorsky
Re Horsey's Will Trusts Young v Horsey
Re Le Champion's Settlement Trusts Le Champion v Loder
Re Liddell-Grainger's Will Trusts Dormer v Liddell-Grainger
Re Legh's Deed Trusts Public Trustee v Legh
Re Maconochie's Settlement Trusts Hulbert v Smith
Re Coombe's Will Trusts Teague v Coombe
Re Symm's Will Trusts Public Trustee v Shaw
Re Simmons' Will Trusts Public Trustee v Heath
Re Senior's Will Trusts Senior v Wood
Re Hunt's Will Trusts Hunt v Hunt
Re Fisher Radburne v Wadsworth
Re Gillespie's Will Trusts Public Trustee v Reynolds
Re Baerselman's Will Trusts Baerselman v Baerselman
Re Wood's Will Trusts Westminster Bank Ltd v Thomas
Re Burnett's Will Trusts Cadman v Burnett
Re Dudley Public Trustee v Dudley

Re Bennett's Will Trusts Bennett v Bennett
Re Ansell Ansell v Ansell
Re Waring's Will Trusts Moreing v Campbell
Willoughby v Eckstein
Re Laurie's Agreement Richardson v Morewood
Re Lancaster's Will Trusts Silcock v Lancaster
Re Knox Fleming v Carmichael
Re Chetwynd's Estate The Dunn Trust Ltd v Brown
Re Heybourn's Will Trusts Heybourn v Heybourn
Re Mason's Will Trusts Barclays Bank Ltd v Whyte
Re Sowden's Will Trusts Bedford v Sowden
Re Hollingsworth Public Trustee v Hollingsworth
Re White's Will Trusts White v White
Re Welchman's Settlement Trusts Dickie v Welchman
Re Field's Settlement Trusts Ogden v Mann
Re Walden's Will Trusts Aubrey v Walden
Re Hill's Will Trusts Hornibrook v Cullompton Parish Council
Re Longwill Turner v Lloyds Bank Ltd
Re Jacobs' Settlement Trusts Senior v Jacobs
Re Panes Panes v Panes
Re Geisel Streitberger v Gordon
Re Adler's Will Trusts Roberts v Heilbrunn
Re Heilbrunn's Settlement Trusts Roberts v Heilbrunn
Re Renard's Will Trusts Renard v Popplewell
Re Loosley Loosley v Hull
Re Fane's Contract Re Law of Property Act 1925
Re Tayler Tayler v Bennett
Re Foulkes' Will Trusts Davies v Foulkes
Re Jacobs' Settlement Public Trustee v Westminster Bank Ltd

KING'S BENCH DIVISION.

CROWN PAPER—For Argument.

Evans v Southdown Motor Services Ltd
The King v Minister of Health (exparte Hampton U D C)
The King v Same (exparte Hampton U D C)
The King v Traffic Commrs for the South Eastern Traffic Area (exparte Valliant Direct Coaches Ltd)
The King v Minister of Transport (exparte Valliant Direct Coaches Ltd)
The King v Traffic Commrs for the South Eastern Traffic Area (exparte Valliant Direct Coaches Ltd)
The King v Redman and ors Traffic Commrs for the West Midland Area (exparte Victoria Motorways Ltd)
Shearlock v Tuke
Barbanell v Naylor
Glamorgan County Council v Ayton
Woodstack v Wilkes
Lewis v Wright
Cole v Police Constable 443A
Ritz Cleaners Ltd v The West Middlesex Assessment Committee
Cafferata v Wilson
Rewe v Same
Brooks v Jefferies
Dalby v Halmshaw
The King v Stockport Licensing Justices (exparte Hardys Crown Brewery Ltd)
Mayor &c of Croydon v Oldaker
Bush v S A Coleman
Bush v L Coleman
Coldham v Williamson
L M & S Rly Co v Greaver and anr
Moggridge v Hunt
Wurzal v Houghton Main Home Coal Delivery Service Ltd
Same v Atkinson and ors
Collard v River Stour (Kent) Catchment Board
Ireland v Wilson
Mallett v Grays Thurrock U D C
Mayor &c of Stepney v Osofsky
The King v Cambridge County Council (exparte River Great Ouse Catchment Board)
Newport Borough Council v Leicester County Council
Thompson v Hope
In re a Solicitor
Jackman v Power Radiance Co
The King v Cornwall County Valuation Committee and ors (exparte Falmouth Rating Authority)
The King v Same (exparte Falmouth Rating Authority)
Nelson v Coventry Swaging Co Ltd
Frarey v Milk Marketing Board
Tolhurst v Webster
Vawser v Waddington Quarter Sessions
Stafford v Kidd
Haigh v Baumber and ors
Jones v Burns
Evans and anr v Exworth
Perks v Tailby
Dickinson v Hunter
Chasteney v Michael Nairn & Co Ltd
Boughton-Leigh v Moss
The King v Minister of Health (exparte Hack)
Russell v Busley
Smith v Benabo
Fry v Bevan
Evans v Dell
Same v Same

CIVIL PAPER—For Hearing.

Abbott v Barnes
Co-operative Permanent Building Society v Staddon
Tester v Harrods Ltd
Pye v Canons Ltd
Kronstein v Korda
Teldman v H Gordon (London) Ltd
Holroyd & Cooper Ltd v James Dilworth & Son
Hilton & Nuttall Ltd v Holroyd & Cooper Ltd
Holroyd & Cooper Ltd v Gould & Co (Manchester) Ltd
Kind & Co v Bluston

MOTION FOR JUDGMENT.

de Rougemont v Bristow

SPECIAL PAPER.

Galloway Water Power Co v Carmichael
Wright v Bassetts Ltd
Ben Line Steamers Ltd v Compagnie Optorg of Saigon
Hollis Bros & Co Ltd v White Sea Timber Trust Ltd
Attwater v Mullen & Lumsden Ltd

APPEALS UNDER THE HOUSING ACTS, 1925 AND 1930.

Adrian Street Compulsory Purchase Order, 1935 (Appeal of Watney Combe Reid & Co Ltd)
Worcester (Newport Street and Dolday Clearance Area No 1) Compulsory Purchase Order, 1935 (Appeal of Ellen Band and ors)
Greenwich (Prince of Orange Lane) Housing Order, 1936 (Appeal of Doris M Willey)
Liverpool (Rock View) Housing Order, 1936 (Appeal of Louis Bernstein)

APPEAL UNDER PUBLIC WORKS FACILITIES ACT, 1930.

Lymington Borough Council Compulsory Purchase Order (Application of Keyhaven Syndicate Ltd)

REVENUE PAPER—Cases Stated.

Hailwood & Ackroyd Ltd and J Frame (H M Inspector of Taxes)
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Sir Thomas D Barlow, K B E and The Commissioners of Inland Revenue
Woodhouse & Co Ltd and The Commissioners of Inland Revenue
Evelyn Laye and C Dodsworth (H M Inspector of Taxes)
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Commissioners of Inland Revenue and N D Cohen
John White's Trust Ltd (in liquidation) and The Commissioners of Inland Revenue
Helen Palmer, Executrix of Richard Elliott Palmer, dec and Frederick Joseph Cattermole (H M Inspector of Taxes)
L K Elmhirst and Commissioners of Inland Revenue
F Wilson (H M Inspector of Taxes) and J K Mannooch
G Dingley and H C MacNulty (H M Inspector of Taxes)
The Commissioners of Inland Revenue and British Salmson Aero Engines Limited
British Salmson Aero Engines Limited and Commissioners of Inland Revenue
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The Trustees of Sir Harold A Wernher's Charitable Trust and Commissioners of Inland Revenue
Frederick Allen and Stephan Murray and H A Trehearne (H M Inspector of Taxes)
F O G Lloyd and S W Grand (H M Inspector of Taxes)

FINANCE ACT, 1894—Petition.

The Executors of Mary Edith Piercy Taylor Smith, dec and Commissioners of Inland Revenue

ENGLISH INFORMATIONS.

Attorney-General v Henry Dickinson and anr
Attorney-General v Sir Strati Ralli and ors

Societies.

Law Association.

The usual monthly meeting of the Directors was held on the 5th October, Mr. Arthur E. Clarke, in the chair. The other Directors present were: Mr. E. Evelyn Barron, Mr. E. B. V. Christian, Mr. Douglas T. Garrett, Mr. Ernest Goddard, Mr. G. D. Hugh Jones, Mr. C. D. Medley, Mr. Frank S. Pritchard, Mr. John Venning, Mr. William Winterbotham, and the Secretary, Mr. Andrew H. Morton. The Secretary reported receipt of a legacy of £50, a sum of £181 was voted in relief of deserving applicants and other general business was transacted.

Law Students' Debating Society.

At a meeting of the Society, held at The Law Society's Court Room, on Tuesday, 6th October (Chairman, Mr. P. W. Iliff), the subject for debate was: "That the case of *With* v. *O'Flanagan* [1936] 1 Ch. 575, was wrongly decided." Mr. J. E. Terry opened in the affirmative; Mr. G. M. Parbury opened in the negative; Mr. J. Montgomerie seconded in the affirmative; and Mr. F. G. Timmins seconded in the negative. The following members also spoke; Messrs. W. M. Pleadwell, Q. B. Hurst and R. Selby. The opener having replied, and the chairman having summed up, the motion was lost by one vote. There were twelve members and one visitor present.

Legal Notes and News.

Honours and Appointments.

It is announced by the Colonial Office that His Majesty the King has been pleased to approve the appointment of Mr. PERCY ALEXANDER MCELWAINE, Attorney General, Straits Settlements, to be the Chief Justice of the Straits Settlements, in succession to Sir Walter Clarence Huggard, who has retired.

The Colonial Office announces the following appointments and promotions in the Colonial Legal Service:—

Mr. F. G. DICKINSON, appointed Crown Counsel, Northern Rhodesia.

Mr. H. E. KINGDON, appointed Magistrate, Zanzibar.

Mr. T. D. H. BRUCE (Solicitor-General, Kenya), appointed Puisne Judge, Gold Coast.

Mr. R. C. CUSSEN (Malayan Civil Service), appointed Puisne Judge, Straits Settlements.

Mr. E. HALLINAN (Administrative Officer), appointed Magistrate, Protectorate Courts, Nigeria.

Mr. G. T. LOWRY (Administrative Officer), appointed Magistrate, Protectorate Courts, Nigeria.

Mr. J. V. G. MILLS (Puisne Judge, Straits Settlements), appointed Judge, Jehore.

Mr. G. M. PATERSON (Administrative Officer), appointed Magistrate, Protectorate Courts, Nigeria.

Mr. J. H. PEDLOW (Malayan Civil Service), appointed Puisne Judge, Straits Settlements.

Mr. J. L. M. PEREZ (Assistant Law Officer), appointed Magistrate, St. George West, Trinidad.

Mr. A. E. P. ROSE (Crown Counsel, Northern Rhodesia), appointed Solicitor-General, Palestine.

Mr. R. O. SINCLAIR (Administrative Officer), appointed Magistrate, Protectorate Courts, Nigeria.

Mr. ARTHUR G. HARRISON, Assistant Solicitor in the Town Clerk's Department, at Birkenhead, has been appointed Assistant Solicitor to the Hull Corporation.

Notes.

The Lord Chancellor has extended the period of service of Sir Holman Gregory, K.C., the Recorder of London, as Judge of the Mayor's and City of London Court for twelve months to 9th October, 1937.

Mr. E. L. Nanson, of Whitehaven, chief agent of the Lowther Estates, has resigned owing to ill-health. He is to be succeeded by Mr. D. J. Mason, of Whitehaven, who has acted as local solicitor to the Lowther Estates since 1919.

The Midland Bank announces that Mr. Harold Lindsay Rouse, formerly Controller, has been appointed a Joint General Manager, and that Mr. Walter James, principal of the bank's legal department, has been appointed to succeed the late Mr. F. O. Free as secretary.

A juryman summoned to Brighton Quarter Sessions recently was so big that he failed to get into the jury box. Efforts were made to assist him in, but the task was found to be impossible. The Recorder (Mr. J. D. Cassels, K.C.) saw the man's difficulty and discharged him from service.

The Solicitors' Managing Clerks' Association announces that a lecture will be given on Friday, 16th October, in the Gray's Inn Hall (by kind permission of the Benchers), by Mr. C. N. Shawcross, on "Motor Insurance—Recent Decisions and Legislation." The chair will be taken at 7 o'clock precisely by The Hon. Mr. Justice Hilbery. Meeting ends at 8 p.m.

The University of London announces that a course of public lectures on Comparative Jurisprudence, will be given by Sir Maurice Sheldon Amos, K.B.E., K.C., Quain Professor of Comparative Law, at University College, on Wednesdays, at 5.15 p.m. The first term consists of ten lectures, beginning 14th October, and the second term of ten lectures, beginning 13th January. The lectures are open to the public without fee or ticket.

Wills and Bequests.

Mr. Arthur Syer, solicitor, of Ashton-upon-Mersey, Cheshire, left £19,240, with net personalty £17,285.

Sir Ronald Wilberforce Allen, solicitor, of Hampstead, left £22,526, with net personalty £13,246.

Mr. Robert Smalley Halliwell, solicitor, of Darwen, left £26,792, with net personalty £8,725.

Mr. William Simpson Hannam, solicitor, of Leeds, left £22,853, with net personalty £10,828.

Mr. Walter Hilliard, solicitor, of Chelmsford, left £19,519, with net personalty £15,460.

Mr. Henry Bostock, retired solicitor, of Hyde, Cheshire, left £45,983, with net personalty £44,282.

Mr. Charles Albert Copland, solicitor, of Chelmsford, senior partner in the firm of Copland & Sons, solicitors, Chelmsford, left £16,255, with net personalty £8,228.

Mr. James Selby Gardner, solicitor, of Rugeley, left £37,380, with net personalty £35,364.

Mr. William Jervis Turner, solicitor, of Newcastle-under-Lyme, and of Hanley, left £17,959, with net personalty £16,838.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 22nd October, 1936.

	Div. Months.	Middle Price 7 Oct. 1936.	Flat Interest Yield. £ s. d.	‡Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	115½	3 9 3	2 19 3
Consols 2½%	JAJO	85¾	2 18 4	—
War Loan 3½% 1952 or after	JD	107⅞	3 4 10	2 17 6
Funding 4% Loan 1960-90	MN	117½	3 8 1	2 19 5
Funding 3% Loan 1959-69	AO	102¼	2 18 8	2 17 4
Funding 2½% Loan 1956-61	AO	92⅞	2 13 10	2 18 1
Victory 4% Loan Av. life 23 years	MS	115½	3 9 3	3 1 0
Conversion 5% Loan 1944-64	MN	117½	4 5 1	2 5 4
Conversion 4½% Loan 1940-44	JJ	110	4 1 10	2 7 2
Conversion 3½% Loan 1961 or after	AO	108⅛	3 4 9	3 0 5
Conversion 3% Loan 1948-53	MS	104¼	2 17 6	2 11 0
Conversion 2½% Loan 1944-49	AO	101¼	2 9 4	2 6 3
Local Loans 3% Stock 1912 or after	JAJO	97¾	3 1 4	—
Bank Stock	AO	380	3 3 2	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	89½	3 1 5	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	97	3 1 10	—
India 4½% 1950-55	MN	117	3 16 11	3 0 0
India 3½% 1931 or after	JAJO	99	3 10 8	—
India 3% 1948 or after	JAJO	88	3 8 2	—
Sudan 4½% 1939-73 Av. life 27 years	FA	118	3 16 3	3 9 3
Sudan 4% 1974 Red. in part after 1950	MN	116	3 9 0	2 12 4
Tanganyika 4% Guaranteed 1951-71	FA	115	3 9 7	2 13 11
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	110	4 1 10	2 7 2
Lon. Elec. T. F. Corpn. 2½% 1950-55	FA	96	2 12 1	2 15 6
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	110	3 12 9	3 5 8
*Australia (C'mm'nw'th) 3¾% 1948-53	JD	104	3 12 2	3 6 9
Canada 4% 1953-58	MS	113	3 10 10	3 0 2
*Natal 3% 1929-49	JJ	102	2 18 10	—
*New South Wales 3½% 1930-50	JJ	101	3 9 4	—
*New Zealand 3% 1945	AO	100	3 0 0	3 0 0
Nigeria 4% 1963	AO	114	3 10 2	3 4 4
*Queensland 3½% 1950-70	JJ	102	3 8 8	3 6 2
South Africa 3½% 1953-73	JD	108	3 4 10	2 18 0
*Victoria 3½% 1929-49	AO	101	3 9 4	—
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	99	3 0 7	—
*Croydon 3% 1940-60	AO	99	3 0 7	3 1 2
Essex County 3½% 1952-72	JD	106½	3 5 9	2 19 8
Leeds 3% 1927 or after	JJ	96	3 2 6	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	106	3 6 0	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	81	3 1 9	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	97	3 1 10	—
Manchester 3% 1941 or after	FA	97½	3 1 6	—
*Metropolitan Consd. 2½% 1920-49	MJSD	101	2 9 6	—
Metropolitan Water Board 3% "A" 1963-2003	AO	99	3 0 7	3 0 8
Do. do. 3% "B" 1934-2003	MS	98½	3 0 11	3 1 1
Do. do. 3% "E" 1953-73	JJ	101	2 19 5	2 18 5
Middlesex County Council 4% 1952-72	MN	113¼xd	3 10 6	2 18 7
† Do. do. 4½% 1950-70	MN	115xd	3 18 3	3 3 1
Nottingham 3% Irredeemable	MN	96xd	3 2 6	—
Sheffield Corp. 3½% 1968	JJ	108	3 4 10	3 2 0
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	118	3 7 10	—
Gt. Western Rly. 4½% Debenture	JJ	127½	3 10 7	—
Gt. Western Rly. 5% Debenture	JJ	138½	3 12 2	—
Gt. Western Rly. 5% Rent Charge	FA	135½	3 13 10	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	133	3 15 2	—
Gt. Western Rly. 5% Preference	MA	123	4 1 4	—
Southern Rly. 4% Debenture	JJ	116	3 9 0	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	112½	3 11 1	3 5 6
Southern Rly. 5% Guaranteed	MA	133	3 15 2	—
Southern Rly. 5% Preference	MA	123	4 1 4	—

*Not available to Trustees over par. †Not available to Trustees over 115.
‡In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.

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